



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

साप्ताहिक

WEEKLY

सं. 47] नई दिल्ली, नवम्बर 17—नवम्बर 23, 2019, शनिवार/कार्तिक 26—अग्रहायण 2, 1941
No. 47] NEW DELHI, NOVEMBER 17—NOVEMBER 23, 2019, SATURDAY/KARTIKA 26—AGRAHAYANA—2, 1941

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 15 नवम्बर, 2019

का.आ. 1984.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद् द्वारा, केंद्र सरकार भारत के दूतावास, एथेंस में श्री प्रवीन कुमार, सहायक अनुभाग अधिकारी को दिनांक 15 नवम्बर 2019 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी.4330/02/2019]

टी. अजुंगला जामिर, निदेशक (सी.पी.वी.)

MINISTRY OF EXTERNAL AFFAIRS

(CPV DIVISION)

New Delhi, the 15th November, 2019

S.O. 1984.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Parveen Kumar, Assistant Section Officer as Assistant Consular Officer in Embassy of India, Athens to perform the consular services with effect from 15 November, 2019.

[No.T-4330/02/2019]

T. AJUNGLA JAMIR, Director (CPV)

नई दिल्ली, 15 नवम्बर, 2019

का. आ. 1985.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद् द्वारा, केंद्र सरकार भारत के उच्चायोग, लिलोंग्वे में श्री सोमवीर अहलावत, सहायक अनुभाग अधिकारी को दिनांक 15 नवम्बर 2019 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2016]

टी. अजुंगला जामिर, निदेशक (सी.पी.वी.)

New Delhi, the 15th November, 2019

S.O. 1985.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Somveer Ahlawat, Assistant Section Officer as Assistant Consular Officer in the High Commission of India, Lilongwe to perform the Consular services with effect from 15 November 2019.

[No. T-4330/01/2016]

T. AJUNGLA JAMIR, Director (CPV)

नई दिल्ली, 15 नवम्बर, 2019

का.आ. 1986.—कानूनी आदेश राजनयिक और कौंसुलीय अधिकारी (शपथ और फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में केंद्र सरकार सुश्री जया गेरा, सहायक अनुभाग अधिकारी को 15 नवम्बर, 2019 से भारत के राजदूतावास, हवाना में सहायक कौंसुलर अधिकारी के कर्तव्यों का पालन करने के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2015]

टी. अजुंगला जामिर, निदेशक (सी.पी.वी.)

New Delhi, the 15th November, 2019

S.O. 1986.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorizes Ms. Jaya Gera, Assistant Section Officer in Embassy of India, Havana to perform the Consular services as Assistant Consular Officer with effect from 15 November, 2019.

[No.T-4330/01/2015]

T. AJUNGLA JAMIR, Director (CPV)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय**(कार्मिक और प्रशिक्षण विभाग)**

नई दिल्ली, 18 नवम्बर, 2019

का.आ. 1987.—केंद्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री भवानी सिंह रोहिल्ला, अधिवक्ता को आतंकवादी और विध्वंसकारी क्रियाकलाप (निवारण) अधिनियम न्यायालय अजमेर के समक्ष केंद्रीय जांच ब्यूरो मामला आरसी जेएआई 1993 (एस)/0037/सीबीआई/जयपुर और उक्त मद से उद्भूत अन्य कार्यवाहियों के अभियोजन के संचालन के लिए दिल्ली विशेष पुलिस स्थापन (केंद्रीय जांच ब्यूरो) की ओर से, नियुक्ति की तारीख से तीन वर्ष की अवधि के लिए या मामले के निपटान तक, इनमें से जो भी पूर्वतर हो, विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा. सं. 225/09/2019-एवीडी-II]

एस.पी.आर. त्रिपाठी, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS**(Department of Personnel and Training)**

New Delhi, the 18th November, 2019

S.O. 1987.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri Bhawani Singh Rohilla, Advocate, as Special Public Prosecutor for conducting prosecution of Central Bureau of Investigation case RC JAI1993 (S)/0037/CBI/Jaipur before the Terrorist and Disruptive Activities (Prevention) Act, Court at Ajmer on behalf of the Delhi Special Police Establishment (Central Bureau of Investigation) and other proceedings arising out of the said case, for a period of three years from the date of appointment or disposal of the case, whichever is earlier.

[F. No. 225/09/2019-AVD-II]

S.P.R. TRIPATHI, Under Secy.

कृषि एवं किसान कल्याण मंत्रालय**(कृषि, सहकारिता एवं किसान कल्याण विभाग)**

नई दिल्ली, 11 नवम्बर, 2019

का.आ. 1988.—बहु-राज्यीय सहकारी समितियां अधिनियम, 2002 (2002 का 39) के खंड 4 के उपखंड (I) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार की अधिसूचना सं. एल-11012/2/2003-एल एवं एम दिनांक 11 अक्टूबर, 2018 के अधिक्रमण में केन्द्र सरकार एतद्वारा श्री विवेक अग्रवाल, IAS (MP:94), संयुक्त सचिव (सहकारिता) को कृषि एवं किसान कल्याण मंत्रालय, कृषि, सहकारिता एवं किसान कल्याण विभाग में तत्काल प्रभाव से अथवा अगले आदेशों तक सहकारी समितियों के केन्द्रीय पंजीयक के रूप में नियुक्त करती है।

[फा. सं. एल-11012/2/2003-एल एवं एम]

शेखर बोस, अवर सचिव

MINISTRY OF AGRICULTURE AND FARMERS WELFARE**(Department of Agriculture, Cooperation and Farmers Welfare)**

New Delhi, the 11th November, 2019

S.O. 1988.—In exercise of the powers conferred vide sub-section (1) of Section 4 of the Multi State Cooperative Societies Act, 2002 (39 of 2002) and in supersession of the Government of India Notification No. L-11012/2/2003-L&M dated 11th October, 2018, the Central Government hereby appoints Shri Vivek Aggarwal, IAS (MP:94), Joint Secretary (Cooperation) in the Ministry of Agriculture and Farmers Welfare, Department of Agriculture, Cooperation and Farmers Welfare, as the Central Registrar of Cooperative Societies with immediate effect and until further orders.

[F. No. L-11012/2/2003-L&M]

SHEKHAR BOSE, Under Secy.

कोयला मंत्रालय

नई दिल्ली, 15 नवम्बर, 2019

का.आ. 1989.—केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) के अधीन भारत सरकार के कोयला मंत्रालय द्वारा जारी की गई अधिसूचना संख्यांक का.आ. 656, तारीख 2 मई, 2019 जो भारत के राजपत्र, भाग II, खंड 3, उप-खंड (ii), तारीख 4 मई, 2019 में प्रकाशित की गई थी, उस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में जिसका माप 16.410 हेक्टर (लगभग) या 40.55 एकड़ (लगभग) है, कोयले का पूर्वेक्षण करने के अपने आशय की सूचना दी थी;

और केन्द्रीय सरकार का यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में वर्णित उक्त भूमि के भाग में कोयला अभिप्राप्त है;

अतः, अब, उक्त अधिनियम की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इससे संलग्न अनुसूची में वर्णित 16.410 हेक्टर (लगभग) या 40.55 एकड़ (लगभग) माप वाली भूमि में या उस पर के सभी अधिकार का अर्जन करने के अपने आशय की सूचना देती है।

टिप्पण 1: इस अधिसूचना के अधीन आने वाले क्षेत्र के रेखांक संख्या एसईसीएल/बीएसपी/जीएम (पीएलजी)/भूमि/528, तारीख 09 सितम्बर, 2019 का निरीक्षण कलेक्टर, जिला — सुरजपुर (छत्तीसगढ़) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता — 700001 के कार्यालय में या साउथ ईस्टर्न कोलफील्ड्स लिमिटेड, (राजस्व अनुभाग), सीपत रोड, बिलासपुर — 495006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है।

टिप्पण 2: उक्त अधिनियम की धारा 8 के उपबंधों की ओर ध्यान आकृष्ट किया जाता है, जिसमें निम्नलिखित उपबंध हैं:—

“8. अर्जन के बाबत आपत्तियाँ.— (1) कोई व्यक्ति जो किसी भूमि में जिसकी बाबत धारा 7 के अधीन अधिसूचना निकाली गई है, हितबद्ध है, अधिसूचना के निकाले जाने से तीस दिन के भीतर सम्पूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का अर्जन किए जाने के बारे में आपत्ति कर सकेगा।

स्पष्टीकरण,— इस धारा के अर्थान्तर्गत यह आपत्ति नहीं मानी जाएगी कि कोई व्यक्ति किसी भूमि में कोयला उत्पादन के लिए स्वयं खनन संक्रियाएं करना चाहता है और ऐसी संक्रियाएं केन्द्रीय सरकार या किसी अन्य व्यक्ति को नहीं करनी चाहिए।

(2) उप-धारा (1) के अधीन प्रत्येक आपत्ति सक्षम प्राधिकारी को लिखित रूप में की जाएगी और सक्षम अधिकारी, आपत्तिकर्ता को स्वयं सुने जाने का या विधि व्यवसायी द्वारा सुनवाई का अवसर देगा और ऐसी सभी आपत्तियों को सुनने के पश्चात् और ऐसी अतिरिक्त जाँच, यदि कोई हो, करने के पश्चात्, जो वह आवश्यक समझता है, वह या तो धारा 7 की उप-धारा (1) के अधीन अधिसूचित भूमि के या ऐसी भूमि में या उस पर के अधिकारों के संबंध में एक रिपोर्ट या ऐसी भूमि के विभिन्न टुकड़े या ऐसी भूमि में या उस पर के अधिकारों के संबंध में आपत्तियों पर अपनी सिफारिशों और उसके द्वारा की गई कार्यवाही के अभिलेख सहित विभिन्न रिपोर्ट केन्द्रीय सरकार को उसके विनिश्चय के लिए देगा।

(3) इस धारा के प्रयोजनों के लिए वह व्यक्ति किसी भूमि में हितबद्ध समझा जाएगा जो प्रतिकर में हित का दावा करने का हकदार होगा, यदि भूमि या किसी ऐसी भूमि में या उस पर के अधिकार इस अधिनियम के अधीन अर्जित कर लिए जाते हैं। ”

टिप्पण 3: केन्द्रीय सरकार ने कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता — 700001 को, उक्त अधिनियम की धारा 3 के अधीन अधिसूचना संख्या का. आ. 905, तारीख 20 मार्च, 1987 जो भारत के राजपत्र, भाग II, खंड 3, उप-खंड (i), तारीख 4 अप्रैल, 1987 में प्रकाशित की गयी द्वारा, सक्षम प्राधिकारी के रूप में नियुक्त किया है।

अनुसूची

महामाया ओसीपी विस्तार ब्लॉक

भटगांव क्षेत्र

जिला सुरजपुर (छत्तीसगढ़)

(रेखांक संख्या एसईसीएल/बीएसपी/जीएम(पीएलजी)/भूमि/528, तारीख 09 सितम्बर, 2019)

सभी अधिकार :

(क) राजस्व भूमि :

क्र. सं.	ग्राम का नाम	ग्राम संख्या	तहसील	जिला	क्षेत्र हेक्टर में			टिप्पणियां
					ब्लॉक-ए	ब्लॉक-बी	कुल	
1.	जरही	103	प्रतापपुर	सुरजपुर	8.380	8.030	16.410	भाग
कुल : 16.410 हेक्टर (लगभग) या 40.55 एकड़ (लगभग)								

ग्राम जरही (भाग) में अर्जित किए जाने वाले प्लॉट संख्या: 33(भाग), 37/2, 38/1, 38/2, 39 से 47, 53 से 58, 61(भाग), 62(भाग), 66(भाग), 67 से 75, 341(भाग), 342(भाग), 483(भाग) से 485(भाग), 486/1, 486/2, 487, 488(भाग), 489(भाग), 490, 491(भाग), 492/1 से 492/4, 493/1, 493/2, 494 से 497, 498(भाग), 500(भाग), 501, 507(भाग), 553/1(भाग), 553/2, 555(भाग), 556(भाग), 557, 564/1 से 564/3, 566(भाग), 582(भाग), 583(भाग), 585(भाग), 589(भाग), 590(भाग), 591 से 595, 596(भाग), 597(भाग), 618(भाग) से 620(भाग), 621 से 623, 624(भाग), 625(भाग), 637(भाग), 638(भाग), 741(भाग), 748(भाग), 749, 750(भाग), 751(भाग), 752 से 755, 756(भाग), 757(भाग), 760(भाग), 772(भाग).

भू-अभिलेख के अनुसार अर्जित किए जाने वाले भूमि के विवरण का ब्यौरा नीचे सारणी में दिया गया है:-

सारणी

ब्लॉक-ए

क्र. सं.	भूस्वामी का नाम, पिता/पति का नाम	प्लॉट संख्या	क्षेत्र हेक्टेयर में	मोबाइल संख्या
(1)	(2)	(3)	(4)	(5)
1	सपेदीया देवी पती कान्ती प्रसाद, भगवती प्रसाद, मम्बीकेश्वर, चण्डीकेश्वर, बट्टी प्रसाद पुत्र कान्ती जाति- ब्राह्मण.	33 भाग	0.32	9753956133
2	समय लाल, श्याम लाल, राम लाल पुत्र कलेश, बचनी, धनमेत पुत्री कलेश, मानकुंवर बेवा कलेश, महेश झुन्नु लाल, बुधराम पुत्र रामचरण रंजीत अन्य 02 भूस्वामी	37/2	0.33	--
3	बाबूलाल हरक लाल ननेश्वर पुत्र जीरोधन जाति-पनिका	38/1	0.74	7354443520
4	परमेश्वर, भूवनेश्वर, जुगेश्वर पुत्र बाबूलाल मु0 सुखमेन बेवा बाबूलाल, जाति-रजवार	38/2	0.14	6268420596
5	नाथूराम पुत्र रधन, जाति-रजवार	39	0.30	9669623684

6	कलावती पत्नी बजरंग गिरि, चंद्रिका पुत्र रामचन्द्र सा0 देह कोरन्धा	40	0.25	--
7	सोनसाय पुत्र अमृत, जाति—रजवार	41	0.21	9406090675
8	समयलाल पुत्र बीरन, गेदी बेवा बीरन, जाति—धोबी	42/1	0.15	8120961547
9	बीरबल पुत्र बीरन, गेदी बेवा बीरन, जाति—धोबी	42/2	0.14	8120961547
10	बालम पुत्र माझी, जाति—रजवार	43	0.04	9617514042
11	सोम प्रकाश पुत्र पीताम्बर, कयासो पुत्री आगरसाय	44	0.06	9009878910
12	सोम प्रकाश पुत्र पीताम्बर, कयासो पुत्री आगरसाय	45	0.04	9009878910
13	बलराम पुत्र माझी, जाति—रजवार	46	0.03	9617514042
14	बलराम पुत्र माझी, जाति—रजवार	47	0.02	9617514042
15	हेमवती कुमारी पुत्री कान्ती प्रसाद	53	1.01	9753956133
16	प्रेम साय, विष्णु पुत्र धीरनपारस पुत्र बीरन, सहोरन, चैतुआ, कैरा	54	0.01	9644962125
17	नितेश, भगवती प्रसाद, जाति—ब्राह्मण	55	0.17	9753956133
18	करम साय पुत्र भदर, जाति—रजवार	56	0.11	7745981891
19	चन्दन राम पुत्र भदर, झनेमत बेवा भदर जाति—रजवार	57	0.13	8959485904
20	मानसाय, खिरोचन, जाति—रजवार	58	0.07	9644962125
21	आलम साय पुत्र सहायबीर जाति—रजवार	61 भाग	0.11	9131587844
22	सोनसाय पुत्र अमृत, जाति—रजवार	62/1 भाग	0.08	9406090675
23	बन्धन, अमृत, जाति—रजवार	62/2 भाग	0.08	9754296460
24	मंगलसाय पुत्र अमृत, जाति—रजवार	62/3 भाग	0.09	9754296460
25	हीराधन पुत्र भूखन, नरबदिया बेवा भूखन, बुधन बेवा नन्हुआ, जाति—रजवार	66 भाग	0.10	--
26	कलावती पत्नी बजरंगगिरि, चन्द्रिका पुत्र रामचन्द्र, कोरन्धा	67	0.18	--
27	कलावती पत्नी बजरंगगिरि, चन्द्रिका पुत्र रामचन्द्र, कोरन्धा	68	0.06	--
28	सोनसाय पुत्र अमृत, जाति—रजवार, जाति—रजवार	69/1	0.02	9406090675
29	बन्धन—अमृत, जाति—रजवार	69/2	0.02	9754296460
30	मंगल साय, पुत्र अमृत, जाति—रजवार	69/3	0.02	9754296460
31	समय लाल पुत्र बीरनगेदी बेवा बीरन, जाति—धोबी	70/1	0.14	--
32	बीरबल पुत्र बीरनगेदी, बेवा बीरन, जाति—धोबी	70/2	0.13	6120961547

33	छ.ग. शासन (सड़क)	71	0.42	--
34	सोम प्रकाश पुत्र पीताम्बर, कयासो पुत्री आगर साय	72	0.20	9009878910
35	छ.ग. शासन (छोटे/बड़े झाड़ का जंगल)	73	0.13	--
36	राम प्यारी पुत्र महाबीर, जाति-रजवार	74/1	0.11	--
37	राम भजन पुत्र आलम साय, जाति-रजवार	74/2	0.11	--
38	बालम पुत्र बहोरन, जाति-रजवार	74/3	0.10	--
39	आलम साय पुत्र बहोरन, जाति-रजवार	74/4	0.10	--
40	लिखु पुत्र रजन, जाति-रजवार	75/1	1.26	9669424550
41	परमेश्वर पुत्र सज्जन, जाति-रजवार	75/2	0.32	9669424550
42	कुन्ते पुत्र सैनाथ, फुईया, पातर पुत्री सैनाथ	75/3	0.33	7067389961
	कुल :		8.38	

टीएल	7.83
जीएल	0.42
सीजेजे/बीजेजे	0.13
कुल	8.38

ब्लॉक-बी

क्र. सं.	भूस्वामी का नाम, पिता/पति का नाम	प्लॉट संख्या	क्षेत्र हेक्टेयर में	मोबाइल संख्या
(1)	(2)	(3)	(4)	(5)
1	बालम पुत्र मांझी, जाति-रजवार	341भाग	0.02	9617514042
2	बालम पुत्र मांझी, जाति-रजवार	342 भाग	0.01	9617514042
3	रमेलाल, शंकर पुत्र अनन्त, घूरनी बेवा अनन्त जाति-रजवार	483P/1	0.13	7772064295
4	सोनसाय पुत्र सीताराम, जाति-रजवार	483P/2	0.13	7772064295
5	शिवनारायण पुत्र सीताराम, जाति-रजवार	483P/3	0.14	7772064295
6	खीजमेन बाई पत्नी शिवधारी	484 भाग	0.05	--
7	सोमारसाय पुत्र सपुरन, मनमेत पुत्री लालो जाति-रजवार	485 भाग	0.04	8319878897
8	भोले राजवाड़े पुत्र बोधन प्रसाद, जाति-रजवार	486/1	0.02	8719951024
9	शंकर राजवाड़े आ0 बोधन प्रसाद, जाति-रजवार	486/2	0.02	8719951024
10	सोमार साय पुत्र सपुरन, मनमेत पुत्री लालो, जाति-रजवार	487	0.02	8319878897

11	खीजमेन बाई पत्नी शिवधारी	488 भाग	0.04	--
12	भोले राजवाड़े पुत्र बोधन प्रसाद, जाति-रजवार	489 भाग /1	0.04	8719951024
13	शंकर राजवाड़े पुत्र बोधन प्रसाद, जाति-रजवार	489 भाग /2	0.03	8719951024
14	लगन, भजन, सजन पुत्र शोभित, बरातू, सकालू	490	0.11	8435629514
15	नितेश — भगवती प्रसाद, जाति-ब्राह्मण	491 भाग	0.60	9753956133
16	अर्जुन, रामकिशुन, संतोषी पुत्र बहोरन माता पंडरी बरातो, संतरा पुत्री बहोरन	492/1	0.01	--
17	नारायण पुत्र मोती लाल, जाति-रजवार	492/2	0.10	9669034098
18	सोनसाय पुत्र नान्हू, राम, मोहरमनिया, सोमारी, भगमेन पुत्री नान्हूराम, जाति-रजवार	492/3	0.10	9111585857
19	नारायण पुत्र मोती लाल, जाति-रजवार	492/4	0.18	9669034098
20	नारायण पुत्र मोती लाल, जाति-रजवार	493/1	0.10	9669034098
21	सोनसाय पुत्र नान्हू, राम, मोहरमनिया, सोमारी, भगमेन पुत्री नान्हू राम, जाति-रजवार	493/2	0.27	9111585857
22	सोमप्रकाश पुत्र पीताम्बर, कयासो पुत्री आगर साय	494	0.02	9009878910
23	बलराम पुत्र माझी, जाति-रजवार	495	0.05	9617514042
24	बालम पुत्र माझी, जाति-रजवार	496	0.08	9617514042
25	बलराम पुत्र माझी, जाति-रजवार	497	0.05	9617514042
26	सोमप्रकाश पुत्र पीताम्बर, कयासो पुत्री आगरसाय, जाति-रजवार	498 भाग	0.02	9009878910
27	रीझन पुत्र दल्लू, जाति-रजवार	500 भाग	0.09	9479243503
28	मोहन पुत्र बुधई, जाति-रजवार	501	0.79	9165821207
29	सरजु पुत्र जौहर, जाति-रजवार	507 भाग /1	0.15	7089495142
30	ललन उर्फ ननका, पुत्र जौहर	507 भाग /2	0.15	9406190675
31	सरजु पुत्र जौहर, जाति रजवार	553/1 भाग	0.10	7089495142
32	जैनेन्द्र प्रसाद पुत्र अरविन्द राम जाति रजवार	553/2	0.30	--
33	छ.ग. शासन	555 भाग	0.11	--
34	बंशरूप, कृष्णा, राधेश्याम पुत्र कंवला	556 भाग	0.22	--
35	नन्द लाल पुत्र मनीजर जाति-चेरवा	557	0.05	8225090474

36	अर्जुन, रामकिशुन, संतोषी पुत्र बहोरन माता पंडरी, बरातो, संतरा पुत्री बहोरन, जाति—रजवार	564/1	0.01	--
37	नारायण पुत्र मोतीलाल, जाति—रजवार	564/2	0.01	9669034098
38	सोनसाय पुत्र नान्हू राम, मोहरमनिया, सोमारी, भगमेन पुत्री नान्हू राम, जाति—रजवार	564/3	0.01	9111585857
39	करम साय पुत्र भदर, जाति—रजवार	566 भाग	0.05	7745981819
40	राम दास पुत्र खिरोधन, जाति—रजवार	582 भाग	0.03	9644962125
41	राम दास पुत्र खिरोधन, जाति—रजवार	583 भाग	0.03	9644962125
42	मानसाय, खिरोधन जाति—रजवार	585 भाग	0.02	9644962125
43	चन्दन राम पुत्र भदर, झनेमत बेवा भदर जाति—रजवार	589 भाग	0.07	8959485904
44	करम साय पुत्र भदर, जाति—रजवार	590 भाग	0.07	7745981819
45	आलम साय पुत्र सहायबीर, जाति—रजवार	591	0.04	6260011671
46	कमलाराम पुत्र रन साय, जाति—रजवार	592	0.04	9755870692
47	राम दास पुत्र खिरोधन, जाति—रजवार	593	0.06	9644962125
48	करम साय पुत्र भदर, जाति—रजवार	594	0.05	7745981819
49	चन्दन राम पुत्र भदर, झनेमत बेवा भदर जाति—रजवार	595	0.09	8959485904
50	करम साय पुत्र भदर, जाति—रजवार	596 भाग	0.04	7745981819
51	छ.ग. शासन	597 भाग	0.25	--
52	सरजू पुत्र जौहर, जाति—रजवार	618/1 भाग	0.01	9669935334
53	ललन उर्फ ननका पुत्र जौहर, जाति—रजवार	618/2 भाग	0.01	9406190675
54	चन्दन राम पुत्र भदर, झनेमत बेवा भदर, जाति—रजवार	619/1 भाग	0.05	8959485904
55	आलम साय पुत्र सहायबीर, जाति—रजवार	619/2 भाग	0.05	6260011671
56	करम साय पुत्र भदर, जाति—रजवार	620 भाग	0.05	7745981819
57	आलम साय पुत्र सहायबीर, जाति—रजवार	621	0.32	6260011671
58	मानसाय, खीरोचन, जाति—रजवार	622	0.18	9644962125
59	कमला राम पुत्र रनसाय, जाति—रजवार	623	0.13	9755870692
60	अमेलाल, सुखराम—सोमार साय, जाति—रजवार	624 भाग	0.03	
61	सरजू पुत्र जौहर, जाति—रजवार	625/1 भाग	0.18	9669935334
62	सरजू पुत्र जौहर, जाति—रजवार	625/2 भाग	0.06	9669935334
63	बंशरूप, कृष्णा, राधेश्याम पुत्र कमला, जाति—चेरवा	637 भाग	0.04	--
64	छ.ग. शासन	638 भाग	0.01	--
65	सरजू मनबसिया पुत्र ननकू, जाति—लोहार	741 भाग	0.35	8120376478

66	रीझन पुत्र दल्लू , जाति—रजवार	748 भाग	0.12	9424268836
67	नितेश, भगवती प्रसाद, जाति—ब्राह्मण	749	0.32	9753956133
68	रामधनी पुत्र दल्लू , जाति—रजवार	750 भाग	0.30	9479243503
69	रीझन पुत्र दल्लू , जाति—रजवार	751 भाग	0.24	9424268836
70	सोमप्रकाश पुत्र पिताम्बर—कयासो पुत्री आगरसाय, जाति—रजवार	752	0.04	9009878910
71	बालम पुत्र मॉझी, जाति—रजवार	753	0.04	9617514042
72	सोमप्रकाश पुत्र पिताम्बर, कयासो पुत्री आगरसाय, जाति—रजवार	754	0.03	9009878910
73	बलराम पुत्र माझी, जाति—रजवार	755	0.09	9617514042
74	बालम पुत्र माझी, जाति—रजवार	756 भाग	0.03	9617514042
75	सोमप्रकाश पुत्र पिताम्बर, कयासो पुत्री आगरसाय, जाति—रजवार	757 भाग	0.04	9009878910
76	नारायण पुत्र मोती लाल, जाति—रजवार	760 /1 भाग	0.02	9669034098
77	नारायण पुत्र मोती लाल, जाति—रजवार	760 /2 भाग	0.02	9669034098
78	सोनसाय पुत्र नान्हू, राम, मोहरमनियों, सोमरी, भगमेन पुत्री नान्हू राम, जाति—रजवार	760 /3 भाग	0.04	911585857
79	रामधनी पुत्र दल्लू जाति—रजवार	772 भाग	0.02	9479243503
	कुल :		8.03	

टीएल	7.66
जीएल	0.36
सीजेजे/बीजेजे	0.01
कुल	8.03

भूमि का प्रकार	ब्लॉक—ए (हेक्टेयर में)	ब्लॉक—बी (हेक्टेयर में)	कुल योग (हेक्टेयर में)
टीएल	7.83	7.66	15.49
जीएल	0.42	0.36	0.78
सीजेजे/बीजेजे	0.13	0.01	0.14
कुल	8.38	8.03	16.41 (हेक्टेयर में)

सीमा वर्णन :

ब्लाक — क:

क—ख रेखा बिन्दु “क” से आरंभ होती है और ग्राम जरही—बरौधी के भागत: सम्मिलित सीमा से होती हुई बिन्दु “ख” पर मिलती है ।

ख—ग रेखा बिन्दु ‘ख’ से आरंभ होती है और ग्राम जरही के प्लॉट संख्या 37/2, के उत्तरी सीमा, 33, 58, 61, 62, 66 से होकर 75 के उत्तरी सीमा से होती हुई बिन्दु “ग” पर मिलती है ।

ग—घ रेखा बिन्दु ‘ग’ से आरंभ होती है और ग्राम जरही के प्लॉट संख्या 75, 74, 73 के पूर्वी सीमा से होती हुई बिन्दु “घ” पर मिलती है ।

घ—क रेखा बिन्दु 'घ' से आरंभ होती है और ग्राम जरही के प्लॉट संख्या 73, 72, 71, 70, 53, 46, 47 के दक्षिणी सीमा से होती हुई आरंभिक बिन्दु "क" पर मिलती है।

ब्लॉक— ख:

ड—च रेखा बिन्दु 'ड' से आरंभ होती है और ग्राम जरही के प्लॉट संख्या 772, 483, 488, 489, 491 से होती हुई बिन्दु "च" पर मिलती है।

च—छ रेखा बिन्दु 'च' से आरंभ होती है और ग्राम जरही के प्लॉट संख्या 342, 341, 498, 500, 507, 582, 583, 585, 589, 590 से होकर प्लॉट संख्या 591, 592, 593, 594, 595 के पूर्वी सीमा, 596 से गुजरती हुई 597, 556, 564, के पश्चिमी सीमा, 566, 556, 555, 553, 597 से होती हुई बिन्दु "छ" पर मिलती है।

छ—ज रेखा बिन्दु 'छ' से आरंभ होती है और ग्राम जरही के प्लॉट संख्या 618, 619, 620, 638 से होती हुई बिन्दु "ज" पर मिलती है।

ज—ड रेखा बिन्दु 'ज' से आरंभ होती है और ग्राम जरही के प्लॉट संख्या 637, 624, 625/1, 625/2, 597, 596, 741, 748, 750, 751, 757, 756, 760, 491, 485, 484, 483, 772 से होती हुई आरंभिक बिन्दु "ड" पर मिलती है।

[फा. सं. 43015/06/2019—एलए एण्ड आईआर]

राम शिरोमणि सरोज, उप सचिव

MINISTRY OF COAL

New Delhi, the 15th November, 2019

S.O. 1989.—Whereas by the notification of the Government of India in the Ministry of Coal number S.O. 656, dated the 2nd May, 2019 issued under sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act) and published in the Gazette of India, part II, Section 3, Sub-section (ii), dated the 4th May, 2019, the Central Government gave notice of its intention to prospect for coal in 16.410 hectares (approximately) or 40.55 acres (approximately) of the lands in the locality specified in the Schedule annexed to that notification;

And whereas, the Central Government is satisfied that coal is obtainable in a part of the said lands prescribed in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire the land measuring 16.410 hectares (approximately) or 40.55 acres (approximately) and all rights in or over the said land described in the Schedule appended hereto; .

Note 1: The plan bearing number SECL/BSP/GM(PLG)/LAND/528, dated the 09th September, 2019 of the area covered by this notification may be inspected in the office of the Collector, District Surajpur (Chhattisgarh) or in the office of the Coal Controller, 1, Council House Street, Kolkata – 700001 or in the office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur, 495006 (Chhattisgarh).

Note 2: Attention is hereby invited to the provisions of section 8 of the said Act which provides as follows:-

“8. Objection to Acquisition.- (1) Any person interested in any land in respect of which a notification under section 7 has been issued, may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or any rights in or over such land.

Explanation.- It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operation in the land for the production of coal and that such operation should not be undertaken by the Central Government or by any other person.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing, and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either makes a report in respect of the land which has been notified under sub-section (1) of section 7 or of rights in or over such land, or make different reports in respect of different parcels of such land or of rights in or over such land, to the Central Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of the Government.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act”.

Note 3 : The Coal Controller, 1, Council House Street, Kolkata-700001, has been appointed by the Central Government as the competent authority under section 3 of the said Act, vide notification number S.O. 905, dated the 20th March, 1987, published in Part II, Section 3, Sub-section (ii) of the Gazette of India, dated the 4th April, 1987.

SCHEDULE

Mahamaya OCP Extension Block

Bhatgaon Area

District Surajpur (Chhattisgarh)

[plan bearing number SECL/ BSP/ GM(PLG)/ LAND/ 528, dated the 09th September, 2019]

All Rights:

(A) Revenue Land:

Sl. No.	Name of village	Village number	Tahsil	District	Area in hectares			Remarks
					Block-A	Block-B	Total	
1.	Jarhi	103	Pratappur	Surajpur	8.380	8.030	16.410	Part
Total : 16.410 hectares (approximately) or 40.55 acres (approximately)								

Plot numbers to be acquired in village Jarhi (Part): 33(P), 37/2, 38/1, 38/2, 39 to 47, 53 to 58, 61(P), 62(P), 66(P), 67 to 75, 341(P), 342(P), 483(P) to 485(P), 486/1, 486/2, 487, 488(P), 489(P), 490, 491(P), 492/1 to 492/4, 493/1, 493/2, 494 to 497, 498(P), 500(P), 501, 507(P), 553/1(P), 553/2, 555(P), 556(P), 557, 564/1 to 564/3, 566(P), 582(P), 583(P), 585(P), 589(P), 590(P), 591 to 595, 596(P), 597(P), 618(P) to 620(P), 621 to 623, 624(P), 625(P), 637(P), 638(P), 741(P), 748(P), 749, 750(P), 751(P), 752 to 755, 756(P), 757(P), 760(P), 772(P) .

Details of land to be acquired with land records is given in the table below:-

TABLE

BLOCK-A

Sl. No.	Name of Land owner, Father/Husband	Plot number	Area in hectares	Mobile number
(1)	(2)	(3)	(4)	(5)
1.	Sapedia Devi W/o Kanti Prasad, Bhagwati Prasad, Mambikeshwar, Chandikeshwar, Badri Prasad S/o Kanti, Caste-Brahmin.	33 P	0.32	9753956133
2.	Samaylal, Shyamlal, Ramlal S/o Kalesh, Bachani, Dhanmet D/o Kalesh, Mankunwar W/o Kalesh, Mahesh, Jhunnulal, Budhram S/o Ramcharan, Ranjeet & 2 Others	37/2	0.33	--
3.	Baboolal, Haraklal, Naneshwar S/o Jirodhan, Caste-Panika	38/1	0.74	7354443520
4.	Parmeshwar, Bhuneshwar, Jugeshwar S/o Baboolal, Mu. Sukhmen W/o Baboolal, Caste-Rajwar	38/2	0.14	6268420596

5.	Nathuram S/o Radhan, Caste-Rajwar	39	0.30	9669623684
6.	Kalawati W/o Bajrang Giri, Chandrika S/o Ranchand, Korandha	40	0.25	--
7.	Sonsai S/o Amrit, Caste-Rajwar	41	0.21	9406090675
8.	Samaylal S/o Biran, Gedi W/o Biran, Caste-Dhobi	42/1	0.15	8120961547
9.	Birbal S/o Biran, Gedi W/o Biran, Caste-Dhobi	42/2	0.14	8120961547
10	Balam S/o Manjhi, Caste-Rajwar	43	0.04	9617514042
11	Somprakash S/o Pitamber, Kayaso D/o Aagarsai	44	0.06	9009878910
12	Somprakash S/o Pitamber, Kayaso D/o Aagarsai	45	0.04	9009878910
13	Balram S/o Manjhi, Caste-Rajwar	46	0.03	9617514042
14	Balram S/o Manjhi, Caste-Rajwar	47	0.02	9617514042
15	Hemwati Kumari D/o Kanti Prasad	53	1.01	9753956133
16	Premsai, Vishnu S/o Dhiran, Paras S/o Biran, Sahoran, Chaitua, Kaira	54	0.01	9644962125
17	Nitesh-Bhawati Prasad, Caste-Brahmin	55	0.17	9753956133
18	Karamsai S/o Bhadar, Caste-Rajwar	56	0.11	7745981891
19	Chandanram S/o Bhadar, Jhanmet W/o Bhadar, Caste-Rajwar	57	0.13	8959485904
20	Mansai, Khirochan, Caste-Rajwar	58	0.07	9644962125
21	Aalamsai S/o Sahayveer, Caste-Rajwar	61 P	0.11	9131587844
22	Sonsai S/o Amrit, Caste-Rajwar	62/1 P	0.08	9406090675
23	Bandhan, Amrit, Caste-Rajwar	62/2 P	0.08	9754296460
24	Mangalsai S/o Amrit, Caste-Rajwar	62/3 P	0.09	9754296460
25	Heeradhan S/o Bhukhan, Narbadiya W/o Bhukhan, Budhan W/o Nanhua, Caste-Rajwar	66P	0.10	--
26	Kalawati W/o Bajrang Giri, Chandrika S/o Ranchand, Korandha	67	0.18	--
27	Kalawati W/o Bajrang Giri, Chandrika S/o Ranchand, Korandha	68	0.06	--
28	Sonsai S/o Amrit, Caste-Rajwar	69/1	0.02	9406090675
29	Bandhan, Amrit, Caste-Rajwar	69/2	0.02	9754296460
30	Mangalsai S/o Amrit, Caste-Rajwar	69/3	0.02	9754296460
31	Samaylal S/o Biran, Gedi W/o Biran, Caste-Dhobi	70/1	0.14	--
32	Birbal S/o Biran, Gedi W/o Biran, Caste-Dhobi	70/2	0.13	6120961547
33	Chhatisgarh Government (Road)	71	0.42	--
34	Somprakash S/o Pitamber, Kayaso D/o Aagarsai	72	0.20	9009878910
35	Chhatisgarh Government (CJJ/BJJ)	73	0.13	--
36	Ram Pyari S/o Mahabir, Caste-Rajwar	74/1	0.11	--
37	Ram Bhajan S/o Aalamsai, Caste-Rajwar	74/2	0.11	--
38	Balam S/o Bahoran, Caste-Rajwar	74/3	0.10	--
39	Aalamsai S/o Bahoran, Caste-Rajwar	74/4	0.10	--

40	Likhu S/o Rajan, Caste-Rajwar	75/1	1.26	9669424550
41	Parmeshwar S/o Sajjan, Caste-Rajwar	75/2	0.32	9669424550
42	Kunte S/o Sainath, Phuiya, Patar D/o Sainath	75/3	0.33	7067389961
	Total:		8.38	

TL	7.83
GL	0.42
CJJ/BJJ	0.13
TOTAL	8.38

Block- B

Sr.No.	Name of Land owner, Father/Husband	Plot number	Area in hectares	Mobile number
(1)	(2)	(3)	(4)	(5)
1	Balam S/o Manjhi, Caste-Rajwar	341P	0.02	9617514042
2	Balam S/o Manjhi, Caste-Rajwar	342P	0.01	9617514042
3	Ramelal, Shankar S/o Anant, Ghurni W/o Anant, Caste-Rajwar	483P/1	0.13	7772064295
4	Sonsai S/o Sitaram, Caste-Rajwar	483P/2	0.13	7772064295
5	Shivnarayan S/o Sitaram, Caste-Rajwar	483P/3	0.14	7772064295
6	Khijmen Bai W/o Shividhari	484P	0.05	--
7	Somarsai S/o Sapuran, Manmet D/o Lalo, Caste-Rajwar	485P	0.04	8319878897
8	Bhole Rajwade S/o Bodhan Prasad, Caste-Rajwar	486/1	0.02	8719951024
9	Shankar Rajwade S/o Bodhan Prasad, Caste-Rajwar	486/2	0.02	8719951024
10	Somarsai S/o Sapuran, Manmet D/o Lalo, Caste-Rajwar	487	0.02	8319878897
11	Khijmen Bai W/o Shidhari	488P	0.04	--
12	Bhole Rajwade S/o Bodhan Prasad, Caste-Rajwar	489P/1	0.04	8719951024
13	Shankar Rajwade S/o Bodhan Prasad, Caste-Rajwar	489P/2	0.03	8719951024
14	Lagan, Bhajan, Sajan S/o Shobhit, Baratu, Skalu	490	0.11	8435629514
15	Nitesh-Bhawati Prasad, Caste-Brahmin	491P	0.60	9753956133
16	Arjun, Ramkishun, Santoshi S/o Bahoran Mother Pandri, Barato, Santara D/o Bahoran	492/1	0.01	--
17	Narayan S/o Motilal, Caste-Rajwar	492/2	0.10	9669034098
18	Sonsai S/o Nanhooram, Moharmaniya, Somari, Bhagmen D/o Nanhooram, Caste-Rajwar	492/3	0.10	9111585857
19	Narayan S/o Motilal, Caste-Rajwar	492/4	0.18	9669034098

20	Narayan S/o Motilal, Caste-Rajwar	493/1	0.10	9669034098
21	Sonsai S/o Nanhooram, Moharmaniya, Somari, Bhagmen D/o Nanhooram, Caste-Rajwar	493/2	0.27	9111585857
22	Somprakash S/o Pitamber, Kayaso D/o Aagarsai	494	0.02	9009878910
23	Balram S/o Manjhi, Caste-Rajwar	495	0.05	9617514042
24	Balam S/o Manjhi, Caste-Rajwar	496	0.08	9617514042
25	Balram S/o Manjhi, Caste-Rajwar	497	0.05	9617514042
26	Somprakash S/o Pitamber, Kayaso D/o Aagarsai, Caste-Rajwar	498P	0.02	9009878910
27	Rijhan S/o Dalloo, Caste-Rajwar	500P	0.09	9479243503
28	Mohan S/o Budhai, Caste-Rajwar	501	0.79	9165821207
29	Sarju S/o Jauhar, Caste-Rajwar	507P/1	0.15	7089495142
30	Lalan alias Nanka S/o Jauhar	507P/2	0.15	9406190675
31	Sarju S/o Jauhar, Caste-Rajwar	553/1p	0.10	7089495142
32	Jainendra Prasad S/o Arvind Ram, Caste-Rajwar	553/2	0.30	--
33	Chhatisgarh Government	555P	0.11	--
34	Banshroop, Krishna, Radheshyam S/o Kanwala	556P	0.22	--
35	Nandlal S/o Manijar, Caste-Cherwa	557	0.05	8225090474
36	Arjun, Ramkishun, Santoshi S/o Bahoran Mother Pandri, Barato, Santara D/o Bahoran, Caste-Rajwar	564/1	0.01	--
37	Narayan S/o Motilal, Caste-Rajwar	564/2	0.01	9669034098
38	Sonsai S/o Nanhooram, Moharmaniya, Somari, Bhagmen D/o Nanhooram, Caste-Rajwar	564/3	0.01	9111585857
39	Karamsai S/o Bhadar, Caste-Rajwar	566P	0.05	7745981819
40	Ramdas S/o Khirodhan, Caste-Rajwar	582P	0.03	9644962125
41	Ramdas S/o Khirodhan, Caste-Rajwar	583P	0.03	9644962125
42	Mansai, Khirodhan, Caste-Rajwar	585P	0.02	9644962125
43	Chandanram S/o Bhadar, Jhanmet W/o Bhadar, Caste-Rajwar	589P	0.07	8959485904
44	Karamsai S/o Bhadar, Caste-Rajwar	590P	0.07	7745981819
45	Aalamsai S/o Sahayveer, Caste-Rajwar	591	0.04	6260011671
46	Kamalaram S/o Ransai, Caste-Rajwar	592	0.04	9755870692
47	Ramdas S/o Khirodhan, Caste-Rajwar	593	0.06	9644962125
48	Karamsai S/o Bhadar, Caste-Rajwar	594	0.05	7745981819
49	Chandanram S/o Bhadar, Jhanmet W/o Bhadar, Caste-Rajwar	595	0.09	8959485904
50	Karamsai S/o Bhadar, Caste-Rajwar	596P	0.04	7745981819
51	Chhattisgarh Government	597P	0.25	--
52	Sarju S/o Jauhar, Caste-Rajwar	618/1 P	0.01	9669935334
53	Lalan alias Nanka S/o Jauhar, Caste-Rajwar	618/2 P	0.01	9406190675

54	Chandanram S/o Bhadar, Jhanmet W/o Bhadar, Caste-Rajwar	619/1 P	0.05	8959485904
55	Aalamsai S/o Sahayveer, Caste-Rajwar	619/2 P	0.05	6260011671
56	Karamsai S/o Bhadar, Caste-Rajwar	620P	0.05	7745981819
57	Aalamsai S/o Sahayveer, Caste-Rajwar	621	0.32	6260011671
58	Mansai, Khirodhan, Caste-Rajwar	622	0.18	9644962125
59	Kamalaram S/o Ransai, Caste-Rajwar	623	0.13	9755870692
60	Amelal, Sukhram-Somarsai, Caste-Rajwar	624P	0.03	--
61	Sarju S/o Jauhar, Caste-Rajwar	625/1 P	0.18	9669935334
62	Sarju S/o Jauhar, Caste-Rajwar	625/2 P	0.06	9669935334
63	Banshroop, Krishna, Radheshyam S/o Kamla, Caste-Cherwa	637P	0.04	--
64	Chhattisgarh Government	638P	0.01	--
65	Sarju Manbasia S/o Nanku, Caste-Lohar	741P	0.35	8120376478
66	Rijhan S/o Dalloo, Caste-Rajwar	748 P	0.12	9424268836
67	Nitesh-Bhawati Prasad, Caste-Brahmin	749	0.32	9753956133
68	Ramdhani S/o Dalloo, Caste-Rajwar	750 P	0.30	9479243503
69	Rijhan S/o Dalloo, Caste-Rajwar	751P	0.24	9424268836
70	Somprakash S/o Pitamber, Kayaso D/o Aagarsai, Caste-Rajwar	752	0.04	9009878910
71	Balam S/o Manjhi, Caste-Rajwar	753	0.04	9617514042
72	Somprakash S/o Pitamber, Kayaso D/o Aagarsai, Caste-Rajwar	754	0.03	9009878910
73	Balram S/o Manjhi, Caste-Rajwar	755	0.09	9617514042
74	Balam S/o Manjhi, Caste-Rajwar	756 P	0.03	9617514042
75	Somprakash S/o Pitamber, Kayaso D/o Aagarsai, Caste-Rajwar	757 P	0.04	9009878910
76	Narayan S/o Motilal, Caste-Rajwar	760 /1 P	0.02	9669034098
77	Narayan S/o Motilal, Caste-Rajwar	760 /2 P	0.02	9669034098
78	Sonsai S/o Nanhooram, Moharmaniya, Somari, Bhagmen D/o Nanhooram, Caste-Rajwar	760 /3 P	0.04	911585857
79	Ramdhani S/o Dalloo, Caste-Rajwar	772 P	0.02	9479243503
	Total:		8.03	

TL	7.66
GL	0.36
CJJ/BJJ	0.01
Total :	8.03

Type of land	Block-A (in hectares)	Block-B (in hectares)	Grand Total (in hectares)
TL	7.83	7.66	15.49
GL	0.42	0.36	0.78
CJJ/BJJ	0.13	0.01	0.14
Total:	8.38	8.03	16.41 (in hectares)

Boundary description:

Block – A:

- A-B Line starts from point 'A' and passes along partly common boundary of villages Jarhi- Barudhi and meets at point 'B'.
- B-C Line starts from point 'B' and passes in village Jarhi along northern boundary of plot number 37/2, through plot numbers 33, 58, 61, 62, 66, along northern boundary of 75 and meets at point 'C'.
- C-D Line starts from point 'C' and passes in village Jarhi along eastern boundary of plot numbers 75, 74, 73 and meets at point 'D'.
- D-A Line starts from point 'D' and passes in village Jarhi along southern boundary of plot numbers 73, 72, 71, 70, 53, 46, 47 and meets at starting point 'A'.

Block-B:

- E-F Line starts from point 'E' and passes in village Jarhi through plot numbers 772, 483, 488, 489, 491 and meets at point 'F'.
- F-G Line starts from point 'F' and passes in village Jarhi through plot numbers 342, 341, 498, 500, 507, 582, 583, 585, 589, 590, along eastern boundary of plot numbers 591, 592, 593, 594, 595, through plot number 596, along western boundary of plot numbers 597, 556, 564, through plot numbers 566, 556, 555, 553, 597 and meets at point 'G'.
- G-H Line starts from point 'G' and passes in village Jarhi through plot numbers 618, 619, 620, 638 and meets at point 'H'.
- H-E Line starts from point 'H' and passes in village Jarhi through plot numbers 637, 624, 625/1, 625/2, 597, 596, 741, 748, 750, 751, 757, 756, 760, 491, 485, 484, 483, 772 and meets at starting point 'E'.

[F. No. 43015/06/ 2019-LA&IR]

RAM SHIROMANI SAROJ, Dy. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 14 नवम्बर, 2019

का.आ. 1990.—केंद्रीय सरकार, तेल उद्योग (विकास) अधिनियम, 1974 (1974 का 47) की धारा 3 की उपधारा (3) (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा श्री शशि शंकर, अध्यक्ष और प्रबंध निदेशक, ओएनजीसी को 01.10.2019 से 31.03.2021 तक या अगले आदेश होने तक, जो भी पहले हो, तेल उद्योग विकास बोर्ड का सदस्य नियुक्त करती है।

[फा. सं. जी-38011/41/2016-वित्त-I]

पेरिन देवी, निदेशक

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 14th November, 2019

S.O. 1990.—In exercise of the Powers conferred by Sub-Section (3)(c) of Section 3 of the Oil Industry (Development) Act, 1974 (47 of 1974), the Central Government hereby appoints Shri Shashi Shanker, CMD, ONGC as a member of the Oil Industry Development Board w.e.f. 01.10.2019 to 31.03.2021 or until further orders, whichever is earlier.

[F. No. G-38011/41/2016-Fin.I]

PERIN DEVI, Director

नई दिल्ली, 18 नवम्बर, 2019

का.आ. 1991.—केन्द्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि पटना—मोतिहारी—बेतालपुर शाखा पाइपलाइन द्वारा पेट्रोलियम पदार्थों के परिवहन हेतु तहसील: देवरिया, जिला: देवरिया, राज्य: उत्तर प्रदेश में इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए।

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए आवश्यक प्रतीत होता है कि उस भूमि में जिसके भीतर उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आषय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको, भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के अन्दर, भूमि के भीतर पाइपलाइन बिछाए जाने हेतु उपयोग के अधिकार के अर्जन के लिए, श्री राम केश यादव, सक्षम प्राधिकारी इंडियन ऑयल कॉर्पोरेशन लिमिटेड, (पाइपलाइन डिवीजन), जनपद — देवरिया — 274001, राज्य: उत्तर प्रदेश को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : देवरिया	जिला : देवरिया		राज्य : उत्तर प्रदेश		
मौजा/ग्राम	सर्वे/ब्लाक सं. (प्लोट सं.)	सब-डीव —सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
बड़हरा	562		00	14	00
तप्पा : कचुआर	176		00	05	58
	174		00	04	11

[फा. सं. आर-11025(11)/16/2018-ओआर-I/ई-26860]

पी. सोमाकुमार, अवर सचिव

New Delhi, the 18th November, 2019

S.O. 1991.—Whereas it appears to the Central Government that it is necessary in the public interest that a pipeline should be laid by the Indian Oil Corporation Limited in Tehsil: Deoria, District: Deoria in the State of Uttar Pradesh for 'Patna-Motihari-Baitalpur Branch Pipeline' for the transportation of Petroleum Product,

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under sub-section (1) of Section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land, to Shri Ram Kesh Yadav Competent Authority, Indian Oil Corporation Limited. (Pipelines Division), District: Deoria, Pin – 274001, State: Uttar Pradesh.

SCHEDULE

Tehsil : Deoria	District : Deoria		State : Uttar Pradesh		
Mouja / Village	Survey/Block No.	Sub-Div-No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
BADAHARA	562		00	14	00
TAPPA: KACHUAR	176		00	05	58
	174		00	04	11

[F. No. R-11025(11)/16/2018-OR-I/E-26860]

P. SOMAKUMAR, Under Secy.

नई दिल्ली, 18 नवम्बर, 2019

का.आ. 1992.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 783 तारीख 8 मई 2019, जो भारत के राजपत्र तारीख 18 मई 2019, में प्रकाशित की गई थी द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उत्तर प्रदेश राज्य में जिला देवरिया में पटना — मोतिहारी — बैतालपुर तक पेट्रोलियम परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाईप लाईन बिछाने के प्रयोजन के लिए उपयोग के अधिकार के अर्जन के अपने आषय की घोषणा की थी :

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 15 जून 2019 तक उपलब्ध करा दी गई थी ;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाईपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाईपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगी।

पेट्रोलियम और खनिज पाईपलाइन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड पूर्णतया उत्तरदायी होगी और पाईपलाइन से सम्बन्धित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

तहसील : देवरिया	जिला : देवरिया		राज्य : उत्तर प्रदेश		
मौजा/ग्राम	सर्वे/ब्लाक सं. (प्लोट सं.)	सब—डीव —सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
राउतपार तप्पा : कचुआर	528 अ		00	03	50
चकमाधो उर्फ मठिया तप्पा : कचुआर	79		00	00	65
	78		00	12	50

1	2	3	4	5	6
	7		00	00	36
सरैया तप्पा : कचुआर	77		00	04	00
	70		00	03	00
	68		00	05	50
घटैला गाजी तप्पा : कचुआर	482		00	07	56
	277		00	00	36
	283		00	02	76
	284		00	03	16
	282		00	01	02
	289		00	00	55
	452		00	04	00
	346		00	00	72
बड़हरा तप्पा : कचुआर	166		00	05	58
	105		00	02	85
पोखर भिंडा तप्पा : गोबरई	50 ब		00	03	00
बरारी तप्पा : गोबरई	42		00	01	02
पोखरभिंडा तप्पा : गौरा	225		00	16	00
परसा बरवा तप्पा : गौरा	408		00	00	95
मुन्डेरा तप्पा : धतुरा	2		00	00	85
बरारी तप्पा : धतुरा	112		00	01	39
	253		00	01	20
बैतालपुर तप्पा : सिरजम	223		00	02	00
	315		00	01	40
तहसील : भाटपर रानी	जिला : देवरिया		राज्य : उत्तर प्रदेश		
मौजा/ग्राम	सर्वे/ब्लाक सं. (प्लोट सं.)	सब-डीव -सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	1	2	3
रतसिया तप्पा : बलिवन	910		00	01	02

1	2	3	4	5	6
लाल चक तप्पा: घाटी	150		00	00	36
तहसील : सलेमपुर	जिला : देवरिया		राज्य : उत्तर प्रदेश		
मौजा/ग्राम	सर्वे/ब्लाक सं. (प्लोट सं.)	सब-डीव -सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
अमवा तप्पा : सठियांव	260		00	00	36
	447		00	13	60
1	2	3	4	5	6
	21		00	21	78
परासीया करकटही तप्पा : सठियांव	838		00	04	86
	508		00	02	20
	510		00	00	98
	506		00	01	40
खजूरी करौता तप्पा : सठियांव	633		00	00	36
	632		00	01	19
	631		00	00	36

[फा. सं. आर-11025(11)/16/2018-ओआर-आई/ई-26860]

पी. सोमाकुमार, अवर सचिव

New Delhi, the 18th November, 2019

S.O. 1992.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 783 dated the 8th may, 2019, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Gazette of India dated the 18th May, 2019 the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying 'Patna – Motihari - Baitalpur Pipeline Project' for the transportation of Petroleum Products in Deoria District in the state of Uttar Pradesh by Indian Oil Corporation Limited;

And whereas copies of the said Gazette notification were made available to the public up to 15th June 2019.

And whereas the competent authority has under sub-section (1) of section 6 of the said Act submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in Indian Oil Corporation Limited, free from all encumbrances.

Indian Oil Corporation Limited shall be exclusively liable for any compensation in terms of Section 10 of the P & MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to the pipeline.

SCHEDULE

Tehsil : Deoria	District : Deoria		State : Uttar Pradesh		
Mouja / Village	Survey/Block No.	Sub-Div-No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
RAUTPAR TAPPA: KACHUAR	528 A		00	03	50
CHAKMADHO URF MATHIYA TAPPA: KACHUAR	79		00	00	65
	78		00	12	50
	7		00	00	36
SARAIYA TAPPA: KACHUAR	77		00	04	00
	70		00	03	00
	68		00	05	50
GHATAILA GHAZI TAPPA: KACHUAR	482		00	07	56
	277		00	00	36
	283		00	02	76
	284		00	03	16
	282		00	01	02
	289		00	00	55
	452		00	04	00
	346		00	00	72
BADAHARA TAPPA: KACHUAR	166		00	05	58
	105		00	02	85
POKHAR BHINDA TAPPA: GOBARAI	50 B		00	03	00
BARARI TAPPA: GOBARAI	42		00	01	02
POKHAR BHINDA TAPPA: GAURA	225		00	16	00
PARSA BARWA TAPPA : GAURA	408		00	00	95
MUNDERA TAPPA :DHATURA	2		00	00	85
BARARI TAPPA:DHATURA	112		00	01	39
	253		00	01	20
BAITALPUR TAPPA :SIRJAM	223		00	02	00
	315		00	01	40
Tehsil :Bhatpar Rani	District : Deoria		State : Uttar Pradesh		
Mouja / Village	Survey/Block No.	Sub-Div-No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
Ratsiya Tappa : Balivan	910		00	01	02
Lal Chak Tappa:- Ghati	150		00	00	36
Tehsil : Salempur	District : Deoria		State : Uttar Pradesh		
Mouja / Village	Survey/Block No.	Sub-Div-No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	1	2	3
Amava Tappa : Sathiyav	260		00	00	36
	447		00	13	60
	21		00	21	78
Parasiya Karkatahi Tappa : Sathiyav	838		00	04	86
	508		00	02	20

1	2	3	4	5	6
	510		00	00	98
	506		00	01	40
Khajuri Karaunta Tappa : Sathiyav	633		00	00	36
	632		00	01	19
	631		00	00	36

[F. No. R-11025(11)/16/2018-OR-I/E-26860]

P. SOMAKUMAR, Under Secy.

विद्युत मंत्रालय

नई दिल्ली, 30 अक्टूबर, 2019

का.आ. 1993.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में विद्युत मंत्रालय के प्रशासनिक नियंत्रणाधीन पावरग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड के अंतर्गत दक्षिणी क्षेत्र पारेषण प्रणाली-1 के 765/400 के.वी. वेमगिरि जी.आई.एस. उप केंद्र, गांव सूरमपालेम, मंडल गन्डेपल्लि, जिला पूर्व गोदावरी, आंध्र प्रदेश-533437, जिसके 80 प्रतिशत कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है।

[सं. 11011/9/2017-हिंदी]

अनिरुद्ध कुमार, संयुक्त सचिव

MINISTRY OF POWER

New Delhi, the 30th October, 2019

S.O. 1993.—In pursuance of Sub Rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976, the Central Government hereby notify 765/400 KV GIS Station, Surampalem (V), Gandepalli (M), East Godavri (Distt.), Andhra Pradesh-533437 of Southern Region Transmission System-1 of the Power Grid Corporation of India Ltd. under the administrative control of Ministry of Power, where 80% of the staff have acquired working knowledge of Hindi.

[No. 11011/9/2017-Hindi]

ANIRUDDHA KUMAR, Jt. Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 5 नवम्बर, 2019

का.आ. 1994.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स महाप्रबंधक, भारत डायनामिक्स लिमिटेड, कंचनबाग, हैदराबाद और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 1, हैदराबाद के पंचाट (संदर्भ संख्या 29/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 05.11.19 को प्राप्त हुए थे।

[सं. एल-14012/13/2018-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 5th November, 2019

S.O. 1994.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/2019) of the Central Government Industrial Tribunal-cum-Labour Court Hyderabad, as shown in the Annexure, in the Industrial dispute between the employers in relation to The General Manager, Bharat Dynamics Ltd, Kanchanbagh, Hyderabad & Others, and their workmen which were received by the Central Government on 05.11.19.

[No. L-14012/13/2018-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD****Present:** Sri Muralidhar Pradhan, Presiding OfficerDated the 29th day of October, 2019**INDUSTRIAL DISPUTE No. 29/2019****Between:**

Sri C. Narsing Rao,
H. No.-18-7-181/26, Gowlipura,
Hyderabad – 500 053.

...Petitioner

AND

1. The General Manager,
M/s. Bharat Dynamics Ltd., Kanchanbagh,
Hyderabad – 500 058.
2. Sri Jaya Rao, Contractor,
M/s. J.S. Communications,
No. 22-27, Flat No.1,
Laxmi Bhavan Street No.1, R.K. Nagar,
Malkajgiri, Hyderabad – 500 047.

...Respondents

Appearances:

For the Petitioner : M/s. A. Parthasarathi & P. Naveen Kumar, Advocates

For the Respondent : M/s. V. Uma Devi & N. Srinivas, Advocates for R1

AWARD

This is a reference issued by the Government of India, Ministry of Labour and Employment, New Delhi vide order No. L-14012/13/2018-IR(DU) dated 15.2.2019 whereunder this Tribunal is required to adjudicate the dispute i.e.,

“Whether the action of management M/s. J.S. Communication, a contractor of M/s. BDL Hyderabad not to give skilled wages to the workman Shri C.Narsingh Rao is justified? If not what other benefit he is entitled to?”

After receiving the above said reference, it was registered as ID No. 29/2019 in this Tribunal and notices were issued to both the parties and procured their presence.

2. The case is posted for filing of Counter statement by the Respondent. At such stage, on 29.10.2019 the Petitioner and Respondent No.1 filed a joint memo stating therein to close the case as they have settled their dispute outside the court. The counsel for the Petitioner identified the Petitioner and respondent No.1 along with their signature appearing in the joint memo.

3. Perused the joint memo, wherein it has been stated that, in this case Respondent No.2 is a formal party and the claim was made against Respondent No.1. Due to non-payment of salaries the Petitioner has filed this case, against Respondent No.1. Now, Respondent No.1 has paid the arrear salary amount and it has been settled on payment of Rs.75,000/-. Respondent No.1 has already given a cheque of Rs.75,000/-, bearing cheque No.000140 dated 29.10.2019 of HDFC bank to the Petitioner and there will be no further claim regarding this case by the Petitioner against the Respondents.

4. I have heard the Learned Counsel for the Petitioner along with the Petitioner and Respondent No.1 The Petitioner and the Respondent No.1 were explained about the terms and conditions of the settlement. The Petitioner

submitted that he has no claim to raise against the Respondent. Hence, in view of the submission of the Petitioner and Respondent No.1, as well as the averments made in the joint compromise memo, the same is accepted and the case is closed.

4. In view of the compromise made between the parties, it is seen that both the parties have settled their dispute and the Petitioner has no claim to raise, hence, the joint compromise memo is allowed and the compromise made between the parties is accepted. The case is closed as settled.

The reference is answered accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 29th day of October, 2019.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 5 नवम्बर, 2019

का.आ. 1995.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स महानिदेशक (निर्माण), सीपीडब्ल्यूडी, निर्माण भवन, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय- 2 नई दिल्ली के पंचाट (संदर्भ संख्या 123/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 21.10.2019 को प्राप्त हुए थे।

[सं. एल-42025/07/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 5th November, 2019

S.O. 1995.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 123/2015) of the Central Government Industrial Tribunal-cum-Labour Court-2 New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Director General (Works), CPWD, Nirman Bhawan, New Delhi & Others, and their workmen which were received by the Central Government on 21.10.2019.

[No. L-42025/07/2019-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour Court-II, New Delhi

INDUSTRIAL DISPUTE CASE NO. 123/2015

Date of Passing Award- 11th September, 2019

Between:

Shri Bachan Singh,
House No. 243, West Long Street,
Vill & PO- Khera Kalan,

New Delhi- 110082.

... Workman

Versus

The Director,
AIIMS, Ansari Nagar,
New Delhi- 110029.

...Management

Appearances:-

Claimant in person (A/R) For the Workman
None for the management (A/R) For the Management

AWARD

This is an application filed by the claimant/workman u/s 33A of the ID Act claiming that pending adjudication of ID No. 54/2014 filed by him the management changed his service condition by terminating his service without obtaining permission/approval from the Appropriate Authority. The same being illegal is liable to be set aside. While praying for an interim order of reinstatement the claimant has sought for other remedies as would be admissible.

Notice of the claim petition was sent and served on the management who did not appear and by order dated 30.10.2017 the management was proceeded ex-parte.

The claimant filed his evidence by examining himself as WW1. In the said evidence he has stated that in the year 2003 he was appointed against a permanent vacancy as a driver in AIIMS and as per the direction of the head of the Transport Department was working as a mechanic of Air conditioner and water cooler etc. Alleging discrimination with regard to salary and other benefits he had raised a claim before the Labour Commissioner where conciliation proceeding was initiated and being referred by the Appropriate Government ID No. 54/2014 was registered before the Central Government Industrial Tribunal Delhi. The management was duly noticed in that proceeding but opted not to contest the same. Having knowledge about the pendency of the Industrial Dispute the management in a vindicated action on 13.10.2014 served a notice to show cause for a disciplinary action to be taken against him. The claimant submitted written reply to the same. But the management without considering the representation of the claimant and in gross violation of the provisions of ID Act by order dated 26.02.2015 retrenched the workman from service w.e.f. 27.03.2015 and while doing so, no showcause was called from him. Since the action of the management was during the pendency of the Industrial Dispute by the workman and no permission was taken for changing the service condition the same is illegal.

To corroborate the evidence adduced by him he has examined two other witnesses namely Amit Kumar and Vinod Kumar and also filed documents which have been marked in a series of WW1/1 to WW1/12. The documents include the ID Card issued to the claimant, the complaint petition filed by him, the document relating to the qualification of the claimant, the seniority list prepared by the DPC, the notice to showcause and the order of termination etc. The evidence of the workman has been left uncontroverted by the management. The claimant has also filed the copy of the ex-parte award passed by this tribunal in ID No. 54/2014. In the said award marked as exhibit WW1/1 this tribunal has dismissed the claim of the workman.

There is no dispute that prior to the alleged showcause notice and the order of dismissal ID No. 54/2014 was pending. The provision of law laid u/s 33A of the ID Act applies to the proposition when the employer wants to alter the service condition of the workman to his prejudice with regard to any matter connected to a pending dispute or for any misconduct connected to that dispute. In such a situation the employer is under statutory obligations to seek prior permission in writing of the authority before whom the dispute is pending.

To attract the provisions of section 33A of the ID Act the conditions precedent are:

- (1) That there should have been contravention by the management of the provisions of section 33 of the Act.
- (2) That the contravention should have been during the pendency of the proceeding before the conciliatory authority, labour court tribunal or National tribunal as the case may be.
- (3) That the complainant should have been aggrieved by the contravention.

- (4) That the application should have been made to the labour court/, tribunal in which original proceeding is pending.

As of this case there was violation of section 33 of the ID Act which has been proved through oral and documentary evidence by the claimant. The dispute which was raised before this tribunal by the claimant in ID No. 54/2014 is connected with the dispute in respect of which the order of dismissal has been passed. Admittedly no application seeking permission was ever filed by the management before this tribunal. That being the position it is evidently clear that the action of the management in dispensing with the service of the workman during the pendency of ID No. 54/2014 is void abinitio and the claimant is deemed to be in service of the management on the date of termination of service with all consequential benefits. Hence, ordered.

ORDER

The application filed u/s 33A is allowed and the termination of the service of the claimant by the management w.e.f 27.03.2015 is held to be illegal and void and it is held that the claimant is deemed to be in service of the management with all consequential benefits on that date. This award is accordingly passed. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

Dictated & Corrected by me.

11th September, 2019

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 5 नवम्बर, 2019

का.आ. 1996.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स आयुक्त, दिल्ली नगर निगम, दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, नई दिल्ली के पंचाट (संदर्भ संख्या 67/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 21.10.2019 को प्राप्त हुए थे।

[सं. एल-42011/35/2013-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 5th November, 2019

S.O. 1996.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 67/2013) of the Central Government Industrial Tribunal-cum-Labour Court-2 New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Commissioner, Municipal Corporation of Delhi, Delhi & Others, and their workmen which were received by the Central Government on 21.10.2019.

[No. L-42011/35/2013-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 2, NEW DELHI

PRESENT : SMT. PRANITA MOHANTY, Presiding Officer, CGIT-cum-Labour Court-II, New Delhi

INDUSTRIAL DISPUTE CASE No.67/2013

Date of Passing Award : 20th September, 2019

Between :-

Shri Rakesh Kumar Saini,
S/o. Shri Bhoolan Singh, Beldar,
lastly posted at EE/Divn.XVI, Works Deptt.,
Kashmere Gate, Civil Line Zone, through
General Secretary,

Municipal Employees Union,
Agarwal Bhawan, GT Road,
Tis Hazari, Delhi 110054.

...Workman

Versus

The Management of Municipal Corporation of Delhi,
Through its Commissioner,
Town Hall, Chandni Chowk, Delhi-110006
Now after bifurcation erstwhile Municipal Corporation of Delhi,
North Delhi Municipal Corporation, through its
Commissioner (North),
SP Mukherjee Civic Centre,
JL Nehru Marg, New Delhi 110002.

...Management

Appearances :-

Shri Sachita Kumar, A/R For the Workman
Shri Rahul Verma, A/R For the Management

AWARD

The Government of India, Ministry of Labour vide letter No.L-42011/35/2013/IR(DU) dated 20.06.2013 has referred the present dispute between Rakesh Kumar Saini and the Management of MCD, to this Tribunal under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) for adjudication to the following effect :-

‘Whether the action of the management of MCDi in terminating the services of Shri Rakesh Kumar Saini, Ex-Beldar w.e.f. 6/3/03 is justified or not? To what relief the workman is entitled to and from which date?’

2. Both parties were put to notice and the claimant filed statement of claim, contending that he joined into the employment of Management w.e.f. 15/6/1997 as a Beldar. He was a monthly paid muster roll worker but he was designated as a daily rated/casual worker and was paid fixed wages which was revised from time to time under the Minimum Wages Act. On 22/2/2003 the workman concerned alongwith Shri Badar Majid, JE and Shri Om Prakash, regular Beldar were arrested by the CBI on a false complaint alleging that they demanded a bribe from an NRI, for allowing construction of a small room. The workman was granted bail on 4/3/2003 and thereafter, he reported for duty on 6/3/2003 but he was not allowed to resume duties by the officials of the Management. Subsequently, a letter dated 17/3/2003 was issued to the workman that his muster roll was being suspended as he was found involved/arrested in RC13(A)/2003 under Section 7 of Prevention of Corruption Act and 120-B of IPC. Thereafter the workman submitted a representation to the Management for taking him back on duties but to no response. It is pleaded that the workman was acquitted by the Court of Shri T.R. Naval, Special Judge (PC Act), Tis Hazari Courts, Delhi vide judgement dated 8/10/2009. On 16/10/2009 the workman submitted a representation to the Management, informing about his acquittal and requested the Management to allow him to join duties but the Management vide memo dated 25/5/2010 rejected his request. The services of the workman have been terminated w.e.f. 6/3/2003 by way of refusal of duties, which action of the Management is totally illegal, bad, unjust and malafide because no memo or charge sheet was served upon the workman; no opportunity of being heard was given to him; no notice, notice pay or service compensation was paid to him at the time of his termination; the Management has also not displayed any seniority list at the time of termination of his services and as such, termination of his services is in gross violation of Section 25-F, G and H of the Act. The other two employees namely Shri Badar Majid, JE and Shri Om Parkash, regular Beldar who were also co-accused in the criminal case, after their acquittal were taken back on duties but the workman was totally ignored. The workman is totally unemployed since the date of his termination i.e. from 6/3/2003. Demand notice dated 11/6/2010 was sent to the Management but to no response. Thereafter, conciliation proceedings were initiated but resulted into failure, due to adamant & non cooperative attitude of the Management. He has prayed for his reinstatement into service with full back wages & all consequential benefits.

3- The statement of claim has been resisted by the Management who filed written statement and took preliminary objections, inter-alia that no demand notice has been served upon the Management; the claimant/workman has concealed the material facts that the Competent authority vide order dated 25/2/2013 has allowed re-engagement of the claimant as daily wager muster roll beldar and he has already joined duty as such on 13/3/2013 with the Management. On merits, while denying allegations of the workman that he was working on job of permanent nature or that his services were terminated in violation of Section 25-F,G and H of the Act, it is stated that since the claimant being a daily wager employee remained in judicial custody from 22/2/2003 to 4/3/2003, his muster roll was suspended. The representation of the claimant was rightly rejected by the Management vide order dated 17/5/2010 which was communicated to the workman vide office order dated 25/5/2010. Prayer has been made for dismissal of the claim petition.

4- The workman/claimant filed rejoinder, reiterating his own case as set up in the statement of claim and denied the allegations of the Management.

5- Vide order dated 21/11/2016 my learned Predecessor framed following issues and parties were called upon to lead their evidence :-

- 1) Whether the action of the management of MCD in terminating the services of Shri Rakesh Kumar Saini, Ex-Beldar w.e.f.6/3/2003 is justified or not ? If so, its effect ?
- 2) Whether any demand notice has been served by the workman upon the Management prior to raising of the dispute ? If so, its effect ?
- 3) Whether the present dispute has been properly espoused by a recognised Union ? If so, its effect ?
- 4) To what relief the workman is entitled to ?

6- The workman /claimant examined himself as WW1 and led evidence by way of affidavit Ex.WW1/A. He placed reliance on documents Ex.WW1/1 to Ex.WW1/11. On the other hand, the Management examined one Shri S.C.Garg, Assistant Engineer who filed his affidavit Ex.MW1/A and relied on the documents Ex.MW1/1 & Ex.MW1/2.

7- I have heard arguments from A/Rs of the parties and have also gone through the records carefully. My findings on the above issues are as follows.

ISSUE No. 2

8- Firstly, I take up this issue regarding service of demand notice. The workman in para 8 of his statement of claim has pleaded that a demand notice was served upon the Management by Registered AD post vide communication dated 11/6/2010. It has been reiterated so by the workman in his affidavit Ex.WW1/A. Testimony of the workman in this regard has gone unchallenged and unrebutted as he was not put to any cross examination on behalf of the Management. The workman has also filed on record copy of the legal demand notice dated 11/6/2010 as Ex.WW1/1; its postal receipt as Ex.WW1/2 and AD card as Ex.WW1/3. MW1 Shri S.C.Garg –witness of the Management has admitted that address given on point-A in Ex.WW1/1 to Ex.WW1/3 is the correct address of the Management and document Ex.WW1/3 bears the correct stamp of the Management. In the light of documents Ex.WW1/1 to Ex.WW1/3, contention of the Management that no demand notice was served by the claimant upon the Management prior to raising of the present dispute is not sustainable. In the circumstances, this Tribunal has no hesitation to hold that a valid demand notice has been served by the workman upon the Management prior to raising of the present dispute. This issue is answered in favour of the workman.

ISSUE NO. 3 :-

9- During the course of arguments, this issue was not seriously pressed for by the A/R appearing on behalf of the Management, because no objection regarding espousal of the dispute of the workman, was taken in the written statement. Even otherwise, legal demand notice Ex.WW1/1 was sent by the General Secretary of Municipal Employees Union (Regd.). The dispute between the parties has been referred to this Tribunal by the Appropriate Government. Furthermore, sub-section (1) of Section 2 of the Act which recites as under, clearly provides that dispute pertaining to discharge, dismissal/termination of service of an individual workman does not require any espousal by fellow workman or by any Union :-

“Section 2A : Dismissal etc. of an individual workman to be deemed to be an industrial dispute –

(1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with or arising out of such discharge, dismissal, retrenchment **shall be deemed to be an industrial dispute**, notwithstanding **that no other workman nor any union of workmen is a party to the dispute**”.

In view of the provisions of Section 2-A(1) of the Act, the present dispute between the parties relating to termination of services of the workman/claimant herein, is considered to be an industrial dispute and even if it is admitted that same has not been espoused by any Union, the present dispute/reference is maintainable. This issue is accordingly answered in favour of the workman and against the Management.

ISSUE No. 1 and 4 :-

10- From the pleadings of the parties and evidence adduced on record, it is not in dispute that the claimant had been working under the Management as a daily wage/muster roll Beldar since after his joining on 15/6/1997. Relationship of employer-employee between the parties is not in dispute. It is the case of the workman that his services were terminated illegally by the Management on 6/3/2003 when he was not allowed to resume duties by the officials of the Management and that his termination was in violation of the provisions of Section 25-F,G and H of the Act. On the contrary, the case

of the Management is that since the claimant/workman being a daily wager employee remained in judicial custody from 22/2/2003 to 4/3/2003, his muster roll was suspended.

11- It is undisputed fact rather admitted to by MW1 in his cross examination that on 22/2/2003 the workman alongwith JE Badar Majid and regular Beldar Om Prakash were arrested by CBI on charge of demanding bribe and they were released on bail on 4/3/2003. Shri S.C.Garg, MW1 has admitted that after having been released on bail, the workman had approached the Management on 6/3/2003 for allowing him to perform duty. He also admitted that the name of the workman was deleted from the rolls of the Management on 6/3/2003 but no notice, notice pay or retrenchment compensation was either offered or paid to him. To my mind, striking off the name of the workman/claimant from the muster roll amounted to “termination of service” particularly when no notice or compensation in lieu of notice period is given to the workman by the Management. To this view, I am fortified by the decision of Hon’ble Supreme Court of India in the case of **H.D. Singh Versus Reserve Bank of India and others, Manu/SC/0217/1985** wherein their lordships have observed that :-

“...Striking off the name of a workman from the rolls by the employer amounts to “termination of service” and such termination is retrenchment within the meaning of Section 2(oo) of the Act if effected in violation of the mandatory provision contained in Section 25-F and is invalid....”

It is not in dispute that the workman/claimant herein worked under the Management for 240 days in a calendar year preceding to his termination w.e.f.6/3/2003 inasmuch as he worked continuously w.e.f.15/6/1997 till 22/2/2003 when he was arrested by CBI but reported for duty on 6/3/2003 after securing bail on 4/3/2003. However, he was not allowed to do so, rather his name was struck off the muster rolls. MW1 Shri S.C.Garg –sole witness of the Management has admitted that when the name of the workman was deleted from the muster roll on 6/3/2003, no memo or charge sheet or show cause notice was served upon him. Since the Management had not issued any notice or paid compensation in lieu of notice period to the claimant prior to termination of his services w.e.f. 6/3/2003, action of the Management in terminating services of the claimant/workman was in violation of provisions of Section 25-F of the Act.

12- I may mention that provisions of Section 25-F of the Act which provides for conditions precedent to retrenchment of workmen, are absolute and inexorable and it reads as under :-

“25-F : Conditions precedent to retrenchment of workmen –

No workman employed in any industry **who has been in continuous service for not less than one year under an employer** shall be retrenched by that employer until –

- (a) The workman has been given one month’s notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) The workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days’ average pay for every completed years of continuous service or any part thereof in excess of six months; and
- (c) Notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette.”

The above provision makes it clear that the employer is required to give notice to the appropriate Government apart-from giving one month’s notice in writing or one month’s wages in lieu of the notice and payment of retrenchment compensation to the concerned workman. There is nothing on record to show that either any notice was issued by the Management or notice pay/compensation was paid to the workman/claimant prior to his termination. As such, the Management has violated the provisions of Section 25-F of the Act.

13- There is long line of decisions of Hon’ble Apex Court as well as of various High Courts that provisions of Section 25-F of the Act are mandatory in nature and termination of the workman from services in derogation of the provisions of Section 25-F of the Act will render action of the Management illegal and void under the law.

14- Since neither any valid notice nor compensation in lieu of notice period was given by the Management to the workman at the time of termination, the action of the Management in terminating the services of the workman w.e.f. 6/3/2003 is held to be illegal and void.

15- Now important question arises for consideration is as to whether the claimant/workman is entitled to reinstatement of service with full back wages or any incidental relief of payment of back wages. The claimant in the pleading as well as in his testimony has stated that he was acquitted in the criminal case by the Court of Shri T.R. Naval, Special Judge (PC Act). Delhi vide judgement dated 8/10/2009, copy of which has been filed on record by the claimant as Ex.WW1/8. He has also filed on record copy of the application dated 16/10/2009 (Ex.WW1/9) which he had sent to the Management alongwith the copy of the aforesaid judgement with the prayer that his muster roll be revived and that he

be allowed to join his duties. However his request was rejected by the Management vide memo dated 25/5/2010 (Ex.WW1/10). It is pertinent to mention here that workman has since been reinstated in service by the Management w.e.f. 12/3/2013 on the basis of his representation dated 24/4/2011 which fact though was not pleaded by the workman in his statement of claim, has been admitted to by the witness of the Management in his cross examination. MW1 has conceded that for the period between 6/3/2003 to 12/3/2013, neither wages were paid to the workman nor he was allowed continuity in service. However, the fact remains that the workman after having been reinstated by the Management w.e.f. 12/3/2013 is still working under the Management as a daily wage. Thus, the point/issue of reinstatement of the claimant into service has become infructuous, since he has already been reinstated by the Management w.e.f.12/3/2013.

16- As regards back wages for the period between 6/3/2013 to 12/3/2013, testimony of the claimant that he is unemployed since after his termination, has gone unchallenged. The Management has not adduced any evidence to show that the claimant was gainfully employed somewhere else or that he was in a position to make his both ends meet by doing any work during the aforesaid period. Even if it is assumed that the claimant was doing some intermittent or adhoc work to make his both ends meet, that would not itself amount to gainful employment. The workman/claimant is presently aged about 48 years as while appearing in the witness box as WW1 on 21/8/2014 he had disclosed his age as 43 years.

17 The Hon'ble Apex Court in case "Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya" reported as (2013) 10 SCC 324 has held as under :

"The propositions which can be culled out from the aforementioned judgments are :

- i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.
- ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then I has to plead and also lead cogent evidence to prove that the employee/workman wads gainfully employed and was getting wages equal to the wages he/she wads drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments."

18- The Hon'ble Apex Court also held that different expressions are used for describing the consequence of termination of a workman's service/employment/engagement by way of retrenchment without complying with the mandate of Section 25F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometime as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Section 25F (a) and (b) has the effect of rendering the action of the employer and nullity and the employee is entitled to continue in employment as if his service was not terminated. (Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat (2010) 5 SCC 497).

19- However, Hon'ble Apex Court in the case General Manager, Haryana Roadways Vs. Rudan Singh, reported as 2005 SCC (L&S) 716 observed as under :-

"8. There is no rule of thumb that in every case where the Industrial Tribunal gives a finding that the termination of service was in violation of Section 25-F of the Act, entire back wages should be awarded. A host of factors like the manner and method of selection and appointment i.e. whether after proper advertisement of the vacancy or inviting applications from the employment exchange, nature of appointment namely, whether ad hoc, short term, daily wage, temporary or permanent in character, any special qualification required for the job and the like should be weighed and balanced in taking a decision regarding award of back wages. *One of the important factors which has to be taken into consideration is the length of service, which the workman had rendered with the employer. If the workman has rendered a considerable period of service and his services are wrongfully terminated, he may be awarded full or partial back wages keeping in view the fact that at this age and the qualification possessed by him he may not be in a position to get another employment. However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period i.e. from the date of termination till the date of the award, which our experience shows is often quite large, would be wholly inappropriate. A regular service of permanent character cannot be compared to short or intermittent daily wage employment though it may be for 240 days in a calendar year.*"

In the case of **Delhi Jal Board Vs. Vimal Kumar (decided on 5-4-2018) MANU/de/1322/2018** wherein service of a casual driver was terminated without any notice or payment of one month's salary in lieu of such notice. The Industrial Tribunal answering the reference held the action of the management to be illegal and in violation of Section 25-F of the Act. The Award was upheld by Hon'ble High Court of Delhi by observing as under :-

"In view of the above discussion, I am unable to discern any illegality or infirmity in the impugned Award, dated 29th May, 2003, of the Labour Court, to the extent that it holds the termination of the services of the respondent, by the petitioner, to be illegal and unlawful. I am entirely in agreement with the finding, of the Labour Court, that the services of the respondent were retrenched in violation of Section 25-F of the ID Act and that, therefore, he was entitled to be reinstated in service with all consequential benefits. In view of the fact that going by the age of the respondent as disclosed in the counter affidavit filed before this Court, he would, today, be only 50 years of age, and also in view of the fact that the termination of his services as SCM Driver was not on account of any deficiency or shortcoming detected in the manner of discharge by the respondent, of his duties as such, I am of the opinion, that the facts of the present case, do not warrant any interference with the direction, of the Labour Court, to the petitioner to reinstate the respondent in service with the benefit of continuity of service. The petitioner is, therefore, directed to reinstate the respondent in service forthwith.

Inasmuch as the respondent has not been rendering any service to the petitioner since the date of his termination, however, the back wages payable to the respondent would be limited to 50 per cent of the wages which he would have drawn had he continued to serve the petitioner....."

20- Having regard to the legal position as discussed above and the fact that the claimant has already been reinstated into service w.e.f.12/3/2013, this Tribunal is of the firm view that ends of justice will meet if the claimant is held entitled to get 50 per cent back wages for the period from 6/3/2003 to 11/3/2013 with continuity of service, inasmuch as termination of the claimant/workman was illegal and unjustified. These issues are accordingly answered in favour of the workman.

ORDER

The reference is answered on the contest in favour of the workman. The order passed by the Management regarding striking off the name of workman from the roll, amounting to termination of the workman/claimant w.e.f. 6/3/2003 is held to be illegal. It is ordered that the workman shall be deemed to be in service w.e.f.6/3/2003 till 11/3/2013. It is also ordered that the claimant shall be entitled to 50 per cent back wages for the period from 6/3/2003 till 11/3/2013, arrears of which shall be paid by the Management within three months from the date of publication of the Award, failing which the claimant/workman will be entitled to recover the same alongwith interest @ 6% from the date of publication of the Award till realization. Award is passed accordingly. Let copy of this Award be sent for publication as required under Section 17 of the Act.

The reference is accordingly answered.

Dictated & corrected by me.

20th September, 2019

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2019

का.आ. 1997.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स मुख्य महाप्रबंधक, भारत संचार निगम लिमिटेड, देहरादून और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, नई दिल्ली के पंचाट (संदर्भ संख्या 161/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 08.11.2019 को प्राप्त हुए थे।

[सं. एल-40012/17/2012-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 13th November, 2019

S.O. 1997.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 161/2012) of the Central Government Industrial Tribunal-cum-Labour Court-2 New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief

General Manager, Bharat Sanchar Nigam Limited, Dehradun & Others, and their workmen which were received by the Central Government on 08.11.2019.

[No. L-40012/17/2012-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 2: NEW DELHI

PRESENT:- SMT. PRANITA MOHANTY, Presiding Officer, CGIT-cum-Labour Court-II, New Delhi

INDUSTRIAL DISPUTE CASE No. 161/2012

Date of Passing Award: 26th September, 2019

BSNL Casual & Contract Workers Union (Regd.)

Through its General Secretary,

Jangi Bhawan, Moti Nagar,

Post Arjun Nagar,

Haldwani, Uttarakhand.

... Workmen/Claimants

Versus

Bharat Sanchar Nigam Limited,

Through its Chief General Manager,

(Telecom West),

Windlas Shopping Complex,

Rajpur Road,

Dehradun 248001.

... Management/Respondent

Appearances :-

Shri Sunil Kumar, A/R

For the Workman

Shri Atul Bhardwaj A/R

For the Management

AWARD

This Award shall dispose of a reference which was made to this Tribunal by the appropriate Government vide letter No. L-40012/17/ 2012-IR(DU) dated 9th/21st November, 2012 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) for adjudication of an industrial dispute, terms of which are as under:

‘Whether the action of Management of BSNL Nainital (Haldwani) of not regularizing the services of 231 workmen (list enclosed) is unjustified ? If so, to what relief workmen are entitled to?’

2. Both parties were put to notice and the claimants/workmen through their Union filed statement of claim with the averments inter-alia that the Management through its various SSAs are engaging workmen on contract basis through contractors since the year 2005. Some of the workmen mentioned in Annexure-A were engaged by the Management as far back as 1991. It is pleaded that during the period from 1991 to 2005 these workmen were engaged by the BSNL directly and their wages were paid in Form AC-17 every month. No role was ever played by any contractor in the recruitment, supervision & control as well as payment of wages of the workmen. They were recruited and appointed by the senior officers of BSNL, Uttarakhand and the alleged contractors are only for namesake. The contract between BSNL and alleged contractors are sham and bogus. The claimants/workmen were engaged in the core activities of the Management like maintenance of telephone lines, maintenance of telephone exchanges, cable joining etc., as Telephone Mechanics, Computer Operators, Office Assistants, Clerks, Stenographers etc. There has been no complaints against the performance and conduct of the contractual workmen. The work performed by the workmen are permanent and perennial in nature. The Management has not taken any steps for regularizing the services of the workmen just to deny them benefits of permanent workmen. The workmen sent a demand notice to the Management on 7/4/2010 but to no response. Thereafter the dispute was raised before the Conciliation Officer but to no avail. It is claimed that the workmen (whose details are given in Annexure-A) are entitled to be regularized w.e.f. 7/4/2010 i.e. from the date of demands raised by the

workmen Union. Prayer has been made that award be passed against the Management for regularizing the services of the workmen as per Annexure-A.

3- The claim petition has been resisted by the Management of BSNL who filed its written statement and took preliminary objections that there is no relationship of employer and employee between the parties, as all the claimants are labourers of contractor to whom contract had been awarded by the Management through open tenders. It was the contractor who engaged the workmen for completion of the job as per requirement/assignment of the contract. The workmen/claimants were never engaged as employees of the Management and as such they are not the workmen as per Section 2(S) of the Act. It has been denied that during the period from 1991 to 2005 the workmen were engaged by BSNL directly and their wages were paid in Form AC-17 every month. It has been alleged that the officials of the Management have no control over the workmen who have worked for various contractors at various sites. Since the workmen were not the employees of the Management, question of regularizing their services by the Management does not arise. Prayer has been made for dismissal of the claim petition.

4- On the pleadings of the parties, following issues were framed on 16/1/2014 :-

- 1) Whether relationship of employer and employee exists between the management and workmen ? If so, its effect ?
- 2) Whether the action of Management of BSNL, Nainital (Haldwani) of non regularizing the services of 231 workmen (list enclosed) is unjustified ? If so, its effect ?
- 3) To what relief if any workmen are entitled to ?

5- The Claimants in support of their case examined in all 67 witnesses as WW1 to WW 67 including Shri K.K.Bora, General Secretary of the Union as WW67. They tendered their respective affidavits Ex.WW1/A to Ex.WW67/A and relied on documents Ex.WW1/1 to Ex.WW1/18 and Ex.WW110/1. On the other hand, the Management in order to rebut the case of the claimants, examined Shri Deepak Kumar Sharma, Deputy General Manager (Telecom), Haldwani (Nainital) as MW1 who tendered his evidence by way of affidavit Ex.MW1/A and relied on the documents Ex.MW1/1 to Ex.MW1/10 (colly.)

6- Arguments were advanced by Shri Sunil Kumar, A/R for the claimants and Shri Atul Bhardwaj, A/R for the Management. Perused the records carefully. The findings on the above issues are as follows.

Issue No. 1 to 3 :-

7- All these issues being inter dependent are taken up together for disposal by common discussion.

8- At the outset, it may be mentioned that the appropriate Government referred the dispute regarding regularization of the services of 231 Nos. of workmen (as per list enclosed). The said list contains the names, parentage & place of posting of 231 Nos. of workmen, (as annexed alongwith the reference) is now marked as Ex.C-1 (for the sake of identification). Perusal of the record shows that during pendency of the proceedings, an application on behalf of 11 more claimants was filed for impleading them as co-workmen on the ground that though they are performing the same duties, they could not file the case alongwith their co-workmen and the said application was allowed vide order dated 17/11/2017. The particulars of those newly added workmen are given in the list now marked as Ex.C-2. Thus, this dispute pertains to 242 (231 + 11) workmen whose particulars are given in the lists Ex.C-1 and Ex.C-2 respectively.

9- Case of the claimants/workmen herein is that during the period from 1991 to 2005 most of workmen were engaged by the BSNL directly and their wages were paid in Form AC-17 every month. However, the Management through its various SSAs started engaging workmen on contract basis through contractors from the year 2005. The workmen were recruited & appointed by the senior officers of BSNL, Uttarakhand and the alleged contractors are only for namesake. The contract between BSNL and alleged contractors are sham and bogus. On the other hand, case of the Management is that the workmen/claimants were never engaged by the Management. All the claimants are labourers/workers of contractor to whom contract/s had been awarded by the Management through open tenders from time to time. It was the contractor who engaged the workmen for completion of the job as per requirement/assignment of the contract. As such, there does not exist any relationship of employer and employees between the Management & claimants herein.

9- During the course of arguments, learned A/R appearing for the Management strenuously argued that since the claimants were not directly appointed by the Management herein and they used to get wages from the contractor/s, there existed no relationship of employer-employee between the parties. He relied on a number of judgements viz. **Workman Vs. Coates of India Ltd. (2004) 3 SCC 547; Haldia Refinery Canteen Employees Union Vs. Indian Oil Corporation Ltd;(2005) SCC 51; Balwant Rai Saluja Vs. Air India Ltd (2014) 9 SCC 407; Dhrangadhra Chemical Works Ltd. Versus State of Saurashtra, AIR 1957 SC 274; Ram Singh Vs. Union Territory,**

Chandigarh (2004) 1 SCC 126; Workman of Nilgiri Coop Marketing Society Vs. State of Tamilnadu (2004) 3 SCC 4514; State of Karnatka Versus Uma Devi and others 2006(4) SCC 1 to buttress his submission that if the contract is for supply of labour, necessarily the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor.

10) There is no dispute about preposition of law that the effective control test and organization test are not the only factors which can be said to be decisive. With a view to elicit the answer, with regard to employer and employee relationship, the Court/Tribunal is required to consider several factors vis-a-vis- who is the appointing authority, who is the paymaster, who can dismiss; how long alternative service lasts, the extent & control of supervision; the nature of the job – professional or skilled work etc. etc, which would have a bearing on the issue in dispute. For that purpose it is required to consider the evidence adduced on record by the parties to the dispute.

11) Testimony of the workmen/claimants who appeared in the witness box as WW1 to WW 66 are in the line of the averments made in the claim petition. WW1 Shankar Lal claimed to have joined the services of BSNL in July, 1999 and he has been working as Lineman. WW 2 Shri Kamal Kumar Tripathi testified that he joined the services of BSNL in March, 1996. In cross examination he clarified that he was working as a clerk but no appointment letter was issued to him. He has been receiving salary through NEFT/ECS. According to testimony of WW3 Chandra Shekhar Pandey, he has been working since February, 1999 as a telephone mechanic but no appointment letter was issued regarding his engagement. In cross examination he clarified that he was orally called for the job by Shri L.N.Joshi, the then SDO at Haldwani. WW4 Mahesh Singh Bisht testified that he joined the services of BSNL on 1/11/1997 as a phone mechanic but he was not issued any appointment letter. In cross examination he explained that he was orally called for the job by Shri A.K. Asthana, the then AO at Haldwani. WW5 Shri Alok Tewari deposed that he has been working as a computer operator since 1997 under the Management and he was orally called for the job by Shri Bajpayi, the then TTM at Haldwani. He explained that initially his attendance used to be marked but later on it was stopped after 1-1/2 year. He denied the suggestion that he received his wages from contractor through bank. According to testimony of WW6 Gopal Singh Rana, he has been working under the Management since 1999 as an Office Assistant and was orally called for the job by Shri GCS Bisht, the then PRO at Haldwani. Testimony of WW7 Shankar Singh Rawat is to the effect that he has been working as a Lineman since 1998 and was orally called for the job by Shri N.B.Bisht, the then SDO at Haldwani. WW8 Shri Jagat Pal Singh deposed that he joined the services of BSNL on 6/5/1998 and has been working as a Lineman. He was called for the job by Shri N.B. Bisht, the then SDO at Haldwani. To the same effect are the statements of other workmen who appeared as WW9 to WW66 and claimed to have joined service under the Management at different point of time prior to 2005 & after 2005 and have been working either as Lineman, BTS Operator, computer operator, phone mechanic clerk, electrical wireman, cable jointer, housekeeping staff etc. It is worth mentioning that it has come in the cross examination of these witnesses/ claimants that they had not applied for the jobs in response to any advertisement, nor their names were sponsored by the Employment Exchange, nor any appointment letter were issued to them. The claimants have placed reliance on the documents Mark-A to E; Ex.WW3/1 (colly.), Mark X and Mark X-1.. Mark-A is the copy of the order dated 1-1-2012 passed under Section 19(1) of RTI Act by the Public Information Officer/Regional Provident Fund Commissioner-1, Kanwli, Dehradun which was received by one of the workmen Shri Kamal Kumar Tripathi at the office address i.e. Office of General Manager (Telecom), Distt. Nainital, Haldwani. Mark - 2 is the receipt of payment made to the workman Kamal Kumar Tripathi on 6/12/1996 by SDE (MM) Haldwani. Document Mark-C (colly.) is the copy of gate pass for carrying goods/items like cable, jumpher wire, drop wire, , PLB pipe etc.; Mark-D is copy of receipt of goods/item TSF-V W/L Cable by the workman Anand Singh on behalf of SDE, Nainital and Mark-E is copy of circular dated 8/7/2015 issued by the office of AGM (A&P), BSNL to all the CGM, Telecom and SSA Heads. Mark-X & Mark X-1 are the copies of the duty chart in respect of the departmental workers/contractual workers posted under SDE (Phones), Haldwani for the period from 31/3/2019 to 6/4/2019. Document Ex.WW3/1 (colly. pages 1 to 96 are the receipts of payment by the workman Nathu Lal from JTO, Lalkua, BSNL ; attendance sheet of the workers/officials deployed at Telephone Exchange, Motahald; receipts regarding purchase of Diesel, Mobile Oil/lubricants etc. from M/s Trilok Singh & Company by the workman Chander Shekhar Pandey s/o. Laladhar Pandey on behalf of BSNL, Motahald, Haldwani on different dates during the years 2001 to 2005. These documents have been placed on record, mostly to prove the conduct of the management in engaging the workmen for official work on their employees.

12- According to the testimony /affidavit Ex.MW 1/A of Shri Deepak Kumar Sharma, Deputy General Manager (Telecom), there never existed any relationship as of employer-employees between the Management and the claimants herein. The claimants were engaged by the different contractors. This witness has filed on record copy of agreements/contracts (Ex.MW1/1 to Ex.MW1/10) executed by the Management in favour of different contractor/s namely M/s Tomar Detective Security (P) Ltd; M/s Laxmi Engineers, Mathura; M/s Tabi Telecom Services, Bulandshahr (UP); M/s Utranchal Enterprises, Kasipsur, M/s Baba Trading Company, Dehradun; M/s Mangal Trading Company Morena (UP); M/s Jai Shree Ram Traders, Gwalior (MP); M/s Creative Computer Sytem, Almora; M/s Ragunath Computers, Haldwani and M/s Aftab Infocom Pvt.Ltd., Begusarai. Perusal of these contracts/agreements shows that

these were executed by the Management at different points of time, **starting from 2-11-2005 to 14/2/2017**. In cross examination, he expressed his ignorance if the workmen of these proceedings were working with BSNL since 1995 these contractors. He also showed his ignorance if there was any contractor engaged since 1995 to 2005 for undertaking the kinds of work the workmen of this proceeding were undertaking. He admitted that after 1985 there has been a manifold increase in the workload of BSNL at Nainital and that the BSNL, Nainital is in requirement of services rendered by the workmen of these proceedings throughout the year. Though he deposed that whenever any underground fault is detected the technical Officer of BSNL used to attend the same with the help of labourers engaged by the contractor, by digging the trench and thereafter the staff of BSNL used to repair & link the damaged Cable, could not name any person working as a Cable Jointer being a permanent staff of BSNL. He also showed his ignorance if all the exchanges functioning under SSA, Nainital are functioning with single permanent staff with the help of workers engaged by the contractor. This witness of the Management could not say as to who had issued the warning letter Mark-A (purportedly issued by Junior Telecom Officer, Telecom Exchange, LalKua, to the workman Dev Bahadur resident of village Haripur Shivdutt, Arjunpur regarding dereliction of duty. (Dev Bahadur is one of the workmen and his name finds mention at Sl.No.18 of the list Ex.C-1). It would not be out of place to mention here that though MW1 Deepak Kumar Sharma in his cross examination could not identify the signatures appearing on documents Mark X and MarkX-1, however the management has neither disputed the genuineness and authenticity of these documents nor has led any evidence to show that these documents Mark X and MarkX-1 (Duty Chart of the claimants) are fake and fabricated. Hence, from the set of aforesaid evidence led by both the parties and the documents relating to an undisputed point of time, the only conclusion is that the claimant/workman were engaged into work at different point of time by the officers of the management, discharging perennial nature of work under the supervision and control of the officers of BSNL.

13- As per deposition of WW1 to WW66 coupled with the documents Mark A to E, X, X-1 and Ex.3/1 (colly.), it is evident that most of the claimants/ workmen who were engaged either directly before 2005 or through contractors after 2005, for doing the work of Lineman, BTS Operator, computer operator, phone mechanic clerk, electrical wireman, cable jointer, housekeeping staff etc. under the Management are still working as such. Even if it is assumed for the sake of arguments that the Management of BSNL used to get work done from the claimants/workmen through the contractor pursuant to the contract/agreements Ex.MW1/1 to Ex.MW1/9 issued in favour of the contractor/s, in that eventuality also the question arises for consideration is whether the said contract/s are sham or camouflage as alleged by the claimants.

14- It is fairly settled that the ID Act as well as Contract Labour (Regulation & Abolition) Act, 1970 are essentially social and beneficial legislations. The main purpose of the CLRA Act, 1970 is to regulate the working conditions of workers under the contract labour system and to abolish the same by the appropriate government as provided under Section 10 of the said Act. Section 12 of the said Act bars a contractor from undertaking or executing any work through contract labour, except under and in accordance with a licence issued. Section 23, 24 and 25 of the Act makes contravention of the provisions of Act punishable there under. There is also requirement for the principal employer of the establishment to get itself registered under the CLRA Act so as to avail the benefit of provisions of the Act.

15- Constitution Bench of Hon'ble Supreme Court in the celebrated case of **Steel Authority of India Ltd. Vs. National Union Waterfront Workers, (2001) 7 SCC 1** noticed the following circumstances under which contract labour would be held to be the workmen of the principal employer :-

“107. An analysis of the cases, discussed above, shows that they fall in three classes :

- (i) Where contract labour is engaged in or in connection with the work of an establishment and employment of contract labour is prohibited either because the Industrial Adjudicator/Court ordered abolition of contract or because the appropriate Govt. issued notification under Section 10(1) of the CLRA Act, no automatic absorption of the contract labour working in the establishment was ordered.
- (ii) Where the contract was found to be a sham and nominal, rather a camouflage, in which case the contract labour working in the establishment of the principal employer, were held in fact and in reality, the employees of the principal employer himself. Indeed such cases do not relate to abolition of contract labour but present instances wherein the Court pierced the veil and declared the correct position as a fact at the stage after employment of contract labour stood prohibited.
- (iii) Where in discharge of a statutory obligation of maintaining a canteen in an establishment, the principal employer availed the services of a contractor, the Courts have held that the contract labour would indeed be the employees of the principal employer.

16- In the case of Management of **Ashok Hotel Vs. the Workmen (W.P. –Civil No.14828/2006 – decided on 19/2/2013)**, similar issue was involved and it was a case where various workmen were working continuously as safaiwala/housemen in the kitchen department etc. and they were alleged to be working directly under the contractor who had entered into a contract with the principal employer i.e. Ashok Hotel. Contention of the Management to the effect that workmen were employees of the contractor was rejected and contract in the said case was held to be sham and camouflage so as to deny direct relationship of employer (Ashok Hotel) and the workmen.

17- With regard to the case in hand, except for the bald statement that the claimants are/were the workers of the contractor, the Management has not filed on record any document to rebut the contention of the claimants that most of the workmen were engaged directly by the Management even prior to execution of agreements by the Management with the contractor in the year 2005. Testimony of the workmen that they are still working under the Management from the respective dates of their engagement and that the workmen remained the same though contractors used to be changed from time to time, has gone unassailed. The Management of BSNL has filed on record copies of the agreements/contracts awarded to contractor/s from time to time as Ex.MW1/1 to Ex.MW1/10. However, perusal of these agreements show that the same have been issued from time to time either for infrastructure maintenance & upkeep of Exchange/BTS in Zine-1 and Zine-2 (Nainital District) or **for providing workforce teams for station upkeep**, for a period of one year from the date of their execution. It is pertinent to mention here that agreements Ex.MW1/5 (dated 26-12-2014), Ex.MW1/8 (dated 27-7-2004), Ex.MW1/9 (dated 29-5-2010) and 'Ex.MW1/10 (dated 12-7-2013) are exclusively for providing workforce Teams for typing & data feeding in PCs (in English and Hindi) or for Outdoor Plant Network including transmission NW Upkeep & Support for Operations & Maintenance. In brief these agreements are for supply of manpower. Nature of the jobs performed by such workmen engaged as BTS Operator, computer operator, Lineman, Mechanic etc. are regular and perennial one. It seems that the Management had executed the contracts for supply of manpower just to deny the benefits of full wages/salary to the workmen. All these circumstances lead this Tribunal to draw an inference against the Management that the contracts/agreements issued by the Management of BSNL for getting the work done through the contractors by engaging the claimants/workmen herein from time to time are sham and camouflage and that there existed relationship of employer-employees between the parties and management BSNL is the principal employer of these claimants/workmen.

18- Now, the important question/issue which arises for consideration is whether the workmen/claimants who are still working with the Management are entitled to be regularized to the post/s to which they are working. It is fairly settled that there is no fundamental right of those workers who have been employed as daily wager or temporarily or on contractual basis to claim that they have a right to be absorbed in service. Even such workers serving for several years are not entitle to claim regularization if they are not working against a sanctioned post.

19- Hon'ble Supreme Court in the case of **Hari Nandan Prasad and another Vs. Food Corporation of India** 2014) 7 Supreme Court cases 190 held as under :-

"... We are of the opinion that when there are posts available, in the absence of any unfair labour practice, the Labour Court would not give direction for regularization only because a worker has continued as daily wage worker/adhoc/temporary worker for number of year. Further, if there are no posts available, such a direction for regularization would be impressive. In the abovesaid circumstances, giving of direction to regularise a person, only on the basis of number of years put in by such a worker as daily wager et., may amount to backdoor entry into the service which is an anathema to Article 14 of the Constitution. Further such a direction would not be given when the concerned worker does not meet the eligibility requirement of the post in question as per the Recruitment Rules. **However, wherever it is found that similarly situated workmen are regularized by the employer itself under some scheme or otherwise and the workmen in question who have approached Industrial/Labour Court are at par with them, direction of regularization in such cases may be legally justified, otherwise non regularization of the left over workers itself would amount to invidious discrimination qua them in such cases and would be violative of Article 14 of the Constitution. Thus, the Industrial adjudicator would be achieving the equality of upholding Article 14 rather than violating this constitutional provision.**"

20- The Hon'ble High Court of Delhi in the case of **Project Director, Department of Rural Development Versus its Workmen through D.P.V.V.I.E.Union (W.P. -Civil No. 17555/2005 - decided on 29/3/2019)** after referring to number of judgments including the judgment of Hon'ble Apex Court in the case of **Secretary, State of Karnataka and other Vs Uma Devi, 2006 (4) SCC 1** and of Delhi High Court in the case of **Anil Lamba and others Vs. GNCTD WP (Civil) No.958/2018**, have observed in para 27 as under :-

"In my view, the rigors applicable for grant of regularization in cases of public employment cannot be read in such a manner so as to take away the wide powers of an Industrial Tribunal under the ID Act. It needs no reiteration that the basic tenets of service law are very different from those of labour law and therefore, the safeguards put in place to protect the interests of workmen cannot be conflated with the service rules and regulations applicable to government employees in the public sector. Both of them stand on different footing and can neither be tested on the same touchstone nor enforced in the same manner. Therefore, I am of the opinion that neither the decision in Uma Devi (supra) and Anil Lamba (supra) has any application to the facts of the present case. **Even otherwise, a perusal of the decision in Uma Devi (supra) shows that with respect to the regularization of temporary employees, the Supreme Court itself had specifically carved out an exception for those contractual employees who, though appointed regularly, had completed at least 10 years of service. In the facts of the present case, the respondents/workmen have as on date completed**

more than twenty-two years of service, and therefore, even as per the decision in Uma Devi (supra), they would be entitled to the regularization of their services.”

Thus, in view of the above discussed judicial pronouncements, it is evidently clear that the Labour Court/ industrial adjudicator is empowered to issue direction for regularization of service, of the workmen in appropriate cases and for doing so, the length of service rendered by them, nature of work discharged by them, the nature of the posts for which they are working and if other similarly placed persons were regularized or not, are to be considered. The industrial adjudicator has to draw a line between temporarily engaged government employees and temporary/casual labours/ workers for the purpose of arriving at a conclusion in this regard since the whole purpose of industrial adjudication is to curb unfair Labour Practice.

21- It is evident that the claimants/workmen have been working with the Management continuously and uninterruptedly prior to 2005 or thereafter as contractual worker and they are doing the job of Wireman, Telephone Mechanics, Computer Operators, Office Assistants, Clerks etc. and are engaged in the core activities of the working of the Management. Nature of their job is considered to be perennial. The Management has deprived them of the status & privilege of permanent/regular employee/s. Employing workmen as “badlis”, casuals or temporaries and to continue them as such for years together with the object of depriving them of the status & privileges of permanent workman amounts to unfair labour practice, in terms of Section 2(ra) read with Fifth Schedule of the Act. It emerges from the oral and documentary evidence that the Management has adopted unfair labour practice in depriving the workmen/claimants herein of the status & benefit of permanent workman and this unfair labour practice is required to be curbed.

22- It has also come on record that the workmen/claimants described as contractual employees, are doing the same work as being done by their regular counterparts. Testimony of WW 52 Kishore Chand; WW 53 Hardyal Singh WW 54; WW 55 Jeevan Singh Negi; WW 57 Kamal Singh Bisht etc. to the effect that the workmen as per Annexure-A (viz. workmen connected to these proceedings) possess the expertise to perform various tasks and have got work experience & technical knowhow required for day to day functioning of BSNL, has gone unassailed, as neither any suggestion contrary thereto has been given to them nor the Management has led any evidence to rebut the same. Thus, once it is proved that the workmen/claimants are doing same duties and responsibilities as are being performed by regular employees of the Management, **they are entitled to get wages at par with those of regular employees, on the principle of “Equal Pay for Equal Work”**

23- Hon’ble the Apex Court in the case of **State of Punjab and others Vs. Jagjit Singh and others, 2017Lab.L.C. 427** while upholding the principle of “equal pay for equal work” even for temporary employees observed as under :-

“The principle of “equal pay for equal work” can be extended to temporary employees (differently described as work-charged, daily wage, casual, adhoc, contractual and the like). It is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work, cannot be paid less than another, who performs the same duties and responsibilities. Certainly not, in a welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. Any one, who is compelled to work at a lesser wage, does not do so voluntarily. He does so, to provide food and shelter to his family, at the cost of his self respect and dignity, at the cost of his self worth, and at the cost of his integrity. For he knows, that his dependents would suffer immensely, if he does not accept the lesser wage. Any act, of paying less wages, as compared to others similarly situate, constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.”

24- As regards the claim for regularization of service, it is worth mentioning that the workmen have not adduced any documentary evidence to prove their age, qualification etc to be required against the posts they are working. The Ld. Counsel for the respondent raised objection that the management is a Government of India department having their own rules and procedure for recruitment to different post and a person aspirant for employment need to meet those criterions. The claimants of this proceeding having not led evidence about their qualification and eligibility can’t be granted the benefit of regularization as prayed.

It is true that no documentary evidence in this regard has been placed on record. But the claimants in their claim statement have described their age and date of joining for the work by the officers of the management, which has not been disputed by the management in the WS or evidence. This, in absence of evidence to the contrary, goes to prove that the workmen having the requisite qualification and being within the prescribed age limit were inducted to work by the officials of the management, and thus have a right to remain in the employment, till they attain the age of superannuation prescribed for government employees.

Apart from this, the witness examined on behalf of the management has stated that the work done by the workmen are of permanent nature and they have been working since 1991 and thereafter. It is also evident from the evidence that till 2005, they were working directly under the management and thereafter through the contractor. In the

preceding paragraphs of this order, it has already been held that the contract between the management and contractor is sham.

Now it is to be seen if the workmen are victims of Unfair Labour Practice and thus entitled to the relief sought for.

“Unfair Labour Practice” as defined u/s 2(ra) of the ID Act means any of the practice specified in the 5th schedule of the ID Act. Under the said, 5th schedule to employ workmen as Badlis, Casuals or temporaries and to continue them as such for years with the object of depriving them of the privilege and status of permanent workmen amounts to Unfair Labour Practice. In this case, the documents filed by the workmen clearly proved the length of service rendered by individual workman and nature of the work done.

In the case of Maharashtra Road Transport referred supra and in the case of **Shri Ajay Pal Singh vs. Haryana Warehousing Corporation decided in Civil Appeal No. 6327/2014**, disposed of on 9th July 2014, the Hon’ble Supreme Court have held that:

“The provisions of ID Act and the power of the Industrial and Labour Courts provided there in were not at all under consideration in Umadevi’s case. The issue pertaining to Unfair Labour Practice was neither the subject matter for decision nor was it decided in Umadevi’s case.”

Thus, after going through the judgments of Maharashtra Road transport and Ajay Pal Singh referred supra it is held that the observation made in the case of Umadevi has no applicability to the facts of the present case where the workmen have been subjected to unfair Labour Practice being engaged for work on temporary basis for a prolonged period. Not only that the Hon’ble High Court of Jammu and Kashmir in the case of **J and K Bank Limited vs. CGIT and Others reported in 2018 Lab I.C. 2970** have held:

“Unfair Labour Practice-what amounts to-workmen continued in temporary/contractual capacity for years together despite availability of vacant posts, aimed at depriving them of status and privileges of permanent workmen-clearly amounts to unfair labour practice- directions issued by Tribunal to appellant Bank to frame scheme for regularization of respondent workmen within period of 3 months and that respondents workmen would be deemed to have been regularized in case of failure of appellant- Bank to frame scheme, held, justified.”

In this case the oral and documentary evidence since proves the continuous service of the workman for the management any denial to give them temporary status and to regularize their service is held to be illegal and unjustified. In the case of **Hari Nandan Prasad and another Vs. Food Corporation of India (2014) 7 Supreme Court cases 190** and also in the case of **Bharat Bank Limited vs. Employees of the Bharat Bank Limited reported in (1950) LLJ 921** the Hon’ble Supreme Court came to hold that in setting the dispute between the employer and the workmen the function of the tribunal is not confined to administration of justice in accordance with law. It can confer rights and privileges on either party which it consider reasonable and proper though those may not be within the terms of any existing agreement. It can create new rights and obligations between them which it considers essential for keeping industrial peace.

Here is a case where, as indicated above the workmen have been victimized on account of Unfair Labour Practice by the management. Keeping the situation in view it is felt proper to issue a direction to the management to frame a scheme for regularization of service of these workmen within a period of 3 months in the post in which they are/were working subject to the condition that they are within the age limit of superannuation in government sector. This direction is specific in respect of the workmen/claimant of this proceeding the list of which is enclosed with this award and passed in exercise of the power conferred on the tribunal to grant any other relief as per the reference received from the appropriate government. Hence, ordered.

ORDER

The reference be and the same is answered in favour of the workmen. It is held that the action of the management depriving the workmen from regularizing their service is illegal and unjustified and amounts to unfair labour practice. The management department is hereby directed to frame a scheme for regularizing these workmen (as per the list annexed) within 3 months hence subject to the condition that they are within the age limit of superannuation as provided for government servants. It is further directed that the management shall not adopt dilly dallying practice which would be detrimental to the interest of the workmen since they would thereby run out of the prescribed age limit for superannuation from government service. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & corrected by me.

26th September, 2019

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2019

का.आ. 1998.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स अधीक्षक, डाक और तार विभाग, दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, 2 नई दिल्ली के पंचाट (संदर्भ संख्या 39/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 08.11.2019 को प्राप्त हुए थे।

[सं. एल-40011/51/2007-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 13th November, 2019

S.O. 1998.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 39/2008) of the Central Government Industrial Tribunal-cum-Labour Court-2 New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Superintendent, Post and Telegraph Department, Delhi & Others, and their workmen which were received by the Central Government on 08.11.2019.

[No. L-40011/51/2007-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour Court-II, New Delhi

INDUSTRIAL DISPUTE CASE NO. 39/2008

Date of Passing Award- 26th September, 2019

Between:

Shri Balbir Singh,
S/o Shri Bhim Singh,
Through The General Secretary,
Delhi Labour Union, Aggrawal Bhavan,
G.T. Karnal Road, Tis Hazari
Delhi- 110054.

... Workman

Versus

The Superintendent,
Post and Telegraph Department,
North Division, Civil Line Zone,
Delhi.

...Management

Appearances:-

Shri Rajiv Aggarwal (A/R) For the Workman.
Shri Anmol (A/R) For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Post and Telegraph Department, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-40011/51/2007 (IR(DU)) dated 24.06.2008 to this tribunal for adjudication to the following effect.

“Whether the demand of the Delhi Labour Union for regularisation of services of Shri Balbir Singh against the Post of Safai Karamchari w.e.f 15/05/85, by the management of Superintendent, Post and Telegraph Department, is legal and justified? If yes, to what relief the workman is entitled to?”

Being noticed, both parties entered appearance through their respective A/R. The claimant/workman filed claim statement, stating that he was employed by the management as a Safai Karamchari on daily wage basis on 15/05/1985 and posted at Ashok Vihar Post Office, where he worked until 04/11/85 when transferred to Civil Line Post Office, where he worked till 13.01.1987 when his service was illegally terminated. He challenged the act of the management in terminating his service by raising an Industrial Dispute registered as ID No. 112/89. The CGIT New Delhi, by award dated 31.07.2003 held that the workman is entitled to reinstatement without back wages. Pursuant there to, the workman joined his duty in May 2005. Though initially he was assigned duty continuously for 3 months, thereafter, the management started assigning duty against leave vacancy.

Being aggrieved, the workman filed WPC No. 8838/2003 and WPC No. 15937/2004 before the Hon'ble High Court of Delhi. Though WPC No. 15937/2004 was withdrawn, in WPC No. 8838/2003, Hon'ble High Court with the consent of both the parties directed the respondent to assign duties regularly to the claimant/workman in it's Northern Division. The respondent though allowed the claimant to work as such, did not regularize his service considering the length of service and nature of work done by him. While exhibiting a hostile attitude towards the claimant, the management regularized the service of one Syam Lal, a person much junior to him in a group D post. Though the management has vacancy in the regular post of Safai Karamchari and the nature of work done by him is perennial, management did not consider to regularize the service of the workman, though he had completed working continuously for 90 days and also worked for 240 days during a calendar year. Finding no other way, workman served a demand notice on the management on 13.02.2007 and also filed a claim before the Labour Commissioner, where a conciliation proceeding was initiated. The attempt for conciliation since failed the appropriate government referred the matter for adjudication as per the terms of reference.

The management i.e. Department of Post and Telegraphs has resisted the claim on the ground that the claimant was never appointed against any permanent vacancy. He was engaged as a daily wage Safaiwala from 16.05.85 through Employment Exchange and when a regular safaiwala was appointed in Ashok Vihar Post Office, he being a surplus worker was engaged in Civil Line Post Office Delhi where he worked from 05.11.85 to 12.01.87. When a regular Safaiwala was appointed, there, the claimant again became surplus and discharged.

It is the further stand of the management is that an Industrial Dispute being raised by the claimant/workman the CGIT New Delhi in ID No. 112/89 came to hold that Department of Post and Telegraph not being an Industry, the dispute is not an industrial Dispute and no relief can be granted to the workman as prayed. The said Award was challenged by the claimant/workman before the Hon'ble High Court of Delhi in CW NO. 5597/97 and the Hon'ble High Court while quashing the award passed by CGIT remanded the matter for re-adjudication. On re-adjudication the CGIT passed an award directing reinstatement of the workman to service without back wages.

Being aggrieved, the respondent/Department challenged the award before the Hon'ble High Court of Delhi by filing WPC No. 8838/2003, in which the Hon'ble Court directed the respondent/department to appoint workman as a leave substitute and to assign him duties as and when a leave vacancy will arise. The said order of the Hon'ble High Court since has been complied properly the claim of the workman for regularization of service is not tenable in the eye of law.

It is the further stand of the respondent that claimant since was engaged against leave vacancy, it can't be said that he had rendered 90 days continuous service or put to 240 days work in a calendar year to claim regularization. Being engaged in piecemeal, he can't claim absorption as a regular employee.

On the basis of the pleadings of the parties, the following issues were framed for adjudication.

ISSUES

1. As per terms of reference.
2. Relief.

During the pendency of the proceeding, the claimant Balbir Singh died has his wife, Sons and Daughters were substituted as the legal heirs. The cause of the claimant/workman has been espoused by Delhi Labour Union.

The claimant Balbir Singh in support of his case had testified as WW1 and the General Secretary of the Union was examined as WW2. While tendering their respective affidavits the said witnesses also placed on record some documents which have been marked in a series of MW1/W1 to MW1/W6. These documents are the demand notice sent by the workman, appointment letter of Syam Lal, the Policy framed by the government of India 1993 to regularize temporary/casual/ daily wage workers, copy of the award passed earlier by CGIT in ID NO. 112/89. On behalf of the

management, one Amit Thakur Assistant Superintendent testified as MW1. No document on behalf of the management has been placed on record.

At the outset of the argument, the Learned A/R for the claimant argued that it is a typical case of Unfair Labour Practice since the management allowed the workman to work for a prolonged period since 1985 as a daily wager and managed to regularize the service of junior of the claimant unfairly. He was discharging the work of perennial nature and work done by him was the same as done by regular Safai workers. But he was denied equal pay for equal work. Learned A/R also submitted that workman since died during the pendency of this proceeding, ends of justice would be served by a direction to the management to regularize his service from initial date of his engagement and fix his pay accordingly.

To support the stand of the workman for regularization and to counter the stand of the management that the claimant having not been recruited through proper procedure can't be regularized as per the observation of Hon'ble Supreme Court in the case of Umadevi, he placed reliance in the case of **Hari Nandan Prasad and another vs. Food Corporation of India (2014) 7 SCC 190 and Project Director, Department of Rural Development vs. It's workmen through D.P.V.V.I.E Union (WPC No. 17555/2005)** of Hon'ble High Court of Delhi to argue that the observation made by the Hon'ble Supreme Court in the case of Umadevi has no applicability to Industrial Disputes and adjudication.

On behalf of the management argument was advanced that the claimant being a daily wager engaged intermittently on leave vacancy is not entitled to regularization and his claim about continuous work for 90 days or 240 days work during a calendar year are not based on record as no document to that effect has been filed. He also argued that the Hon'ble High Court of Delhi while disposing WPC No. 8838/2003 had clearly directed for engagement of the claimant on leave vacancy, which proves that the claimant was never in continuous employment of the management to claim regularization.

FINDINGS

The Appropriate Government has made a reference for adjudication in respect of the claim of the workman for regularization of service as a Safai Karamchari. Hence, the short and only question to be decided is whether the claim of the workman is legal.

The admitted facts are that the workman was engaged initially in the year 1985 being sponsored by Employment Exchange. He was found to be surplus staff at Ashok Vihar H.O. and thus transferred to Civil Line P.O on 05.11.1985 and worked there till 12.01.1987 when his employment was brought to an end. The claimant as well as the management have admitted about the award passed by the CGIT Delhi in ID No. 112/89 in which the Tribunal came to hold that the workman having completed continuous work for 90 days and also for having worked for 240 days in a calendar year is entitled to the protection laid u/s 25-F of the ID Act and further directed reinstatement of the workman holding his termination illegal. That award having been implemented by the management, the issue relating to the tenure of work and status of the workman has been set at rest.

Thus, it is to be examined now, if the workman is entitled to regularization of service or not and what other relief he is entitled to.

According to the management, when workman was working intermittently he can't be regularized against any permanent post. Moreover, he was not inducted into service by following procedure laid down by the department. Relying on the judgment of the constitution Bench of the S.C. in the case of **Secretary of State karnatak vs. Uma devi reported in (2006) 4 SCC Page1** he argued that the claim of the workman can't be entertained.

Learned A/R for the workman has relied upon the case of **Hari Nandan Prasad and Project Director** referred supra and argued that the observation made in the case of **Uma Devi** has no applicability to an Industrial Dispute and Labour Law.

The Law after the judgment of Uma Devi referred supra is fairly settled that there is no fundamental right of those workers who have been employed as daily wager or temporarily or on contractual basis to claim that they have a right to be absorbed in service. Even such workers serving for several years are not entitle to claim regularization if they are not working against a sanctioned post.

19- Hon'ble Supreme Court in the case of **Hari Nandan Prasad and another Vs. Food Corporation of India (2014) 7 Supreme Court cases 190** held as under :-

"... We are of the opinion that when there are posts available, in the absence of any unfair labour practice, the Labour Court would not give direction for regularization only because a worker has continued as daily wage worker/adhoc/temporary worker for number of year. Further, if there are no posts available, such a direction for regularization would be impressible. In the abovesaid circumstances, giving of direction to regularise a person, only on the basis of number of years put in by such a worker as daily wager et., may amount to backdoor entry into the service which is an anathema to Article 14 of the Constitution. Further such a direction would not be given when the concerned worker does not meet the eligibility requirement of the post in question as per the

Recruitment Rules. **However, wherever it is found that similarly situated workmen are regularized by the employer itself under some scheme or otherwise and the workmen in question who have approached Industrial/Labour Court are at par with them, direction of regularization in such cases may be legally justified, otherwise non regularization of the left over workers itself would amount to invidious discrimination qua them in such cases and would be violative of Article 14 of the Constitution. Thus, the Industrial adjudicator would be achieving the equality of upholding Article 14 rather than violating this constitutional provision."**

20- The Hon'ble High Court of Delhi in the case of **Project Director, Department of Rural Development Versus its Workmen through D.P.V.V.I.E.Union (W.P. –Civil No. 17555/2005 – decided on 29/3/2019)** after referring to number of judgments including the judgment of Hon'ble Apex Court in the case of **Secretary, State of Karnataka and other Vs Uma Devi, 2006 (4) SCC 1** and of Delhi High Court in the case of **Anil Lamba and others Vs. GNCTD WP (Civil) No.958/2018**, have observed in Para 27 as under :-

"In my view, the rigors applicable for grant of regularization in cases of public employment cannot be read in such a manner so as to take away the wide powers of an Industrial Tribunal under the ID Act. It needs no reiteration that the basic tenets of service law are very different from those of labour law and therefore, the safeguards put in place to protect the interests of workmen cannot be conflated with the service rules and regulations applicable to government employees in the public sector. Both of them stand on different footing and can neither be tested on the same touchstone nor enforced in the same manner. Therefore, I am of the opinion that neither the decision in Uma Devi (supra) and Anil Lamba (supra) has any application to the facts of the present case. **Even otherwise, a perusal of the decision in Uma Devi (supra) shows that with respect to the regularization of temporary employees, the Supreme Court itself had specifically carved out an exception for those contractual employees who, though appointed regularly, had completed at least 10 years of service. In the facts of the present case, the respondents/workmen have as on date completed more than twenty-two years of service, and therefore, even as per the decision in Uma Devi (supra), they would be entitled to the regularization of their services."**

Thus, in view of the above discussed judicial pronouncements, it is evidently clear that the Labour Court/ industrial adjudicator is empowered to issue direction for regularization of service, of the workmen in appropriate cases and for doing so, the length of service rendered by them, nature of work discharged by them, the nature of the posts for which they are working and if other similarly placed persons were regularized or not, are to be considered. The industrial adjudicator has to draw a line between temporarily engaged government employees and temporary/casual labours/workers for the purpose of arriving at a conclusion in this regard since the whole purpose of industrial adjudication is to curb unfair Labour Practice.

In this case though management has argued about intermittent engagement of the workman thereby denying that he had worked for 240 days in a calendar year, as seen from record the workman had called for records for his work, seniority list of safai Karamchhari, management without sufficient reason failed to procedure the same. The witness examined by the management being confronted with Government Circular marked as MW1/W4 admitted that any person completing 240 days of work in 12 months having 6 working days in a week is entitled to regularization of service. In that view of the evidence, management which admits engagement of the workman since 1985 and his reinstatement in 2005 after the award passed by the industrial adjudicator is guilty of suppression of material evidence and an adverse inference is bound to be drawn against the management in this regard.

Now it is to be seen if the workman was a victim of Unfair labour Practice in the hands of the management and thus entitled to the relief sought for.

"Unfair Labour Practice" as defined u/s 2(ra) of the ID Act means any of the practice specified in the 5th schedule of the ID Act. Under the said, 5th schedule to employ workmen as Badlis, Casuals or temporaries and to continue them as such for years with the object of depriving them of the privilege and status of permanent workmen amounts to Unfair Labour Practice.

In this case the documents called by the workman could have thrown light on the length of service rendered by him. The documents having not been produced the tribunal is left with no option than to look into the oral evidence of the witness examined by the claimant as well as by the management who have admitted about the engagement of the workman since 1985. From the evidence on record it is thus held that the workman/ claimant was subjected to unfair labour Practice being engaged against permanent nature of work for a prolonged period.

The Unfair Labour Practice has also been alleged by the workman on account of the action of the management in regularizing the service of one Syam Lal, a person Junior to the claimant. At the cost of repetition be it mentioned here that the seniority list called by the workman has not been produced by the management. The witness examined by the management when confronted with the document marked as WW1/M3 and WW1/M4, admitted that one Syam Lal appointed as Part time Safai Wala on 10.08.1990 was appointed as Safai Wala in Group D on regular Basis

w.e.f.17.06.92. The management witness during cross examination failed to differentiate a part time Safai Wala and a daily wager Safai Wala. As against the said evidence and keeping in view that the claimant was engaged into work of the management in the year 1985 it is held that Syam Lal being junior was regularized in service ignoring the seniority of the workman and the same amounts to Unfair Labour Practice.

In the case of **Anil Lamba and others Vs. GNCTD WP (Civil) No.958/2018** the Hon'ble High Court of Delhi have held that the rigors applicable for grant of regularization in cases of Public employment cannot be read in such a manner so as to take away the wide power of the industrial Tribunal under the ID Act. The alleged Unfair Labour Practice being proved by the workman/claimant it is held that he is entitled to the relief of regularization.

Argument was advanced by the management about intermittent engagement of the workman against leave vacancy. This plea of the management is not supported by any documentary evidence of which the management is the only custodian. Of course there is evidence about breakage of service of the workman from 1987 to 2005 i.e. till his reinstatement pursuant to the award passed by the CGIT in Id No. 112/1989. But in the case of **Om Prakash and others vs. Delhi Jal Board decided in WP(C) 1132/2011** the Hon'ble High Court of Delhi have held:

Para 12 "The very idea of restoring an employee to the position which he held before dismissal or removal or termination of service implies that the employee will be put in the same position in which he would have been but for the illegal action taken by the employer".

Similar view was also taken by the Hon'ble High Court of Delhi in the case of **Dharamveer Singh vs. MCD in WP(c) No. 6862/2011 decided on 24.01.2013** that:

Para 11 "Once the petitioner had been directed to be reinstated with continuity it is to be deemed that he was in continuous service till the date, he is actually allowed to rejoin. Therefore, to say that the petitioner cannot be granted regularization w.e.f. 01.04.1999 since he was actually not in service from 1993 till 01.04.1999 is completely flawed".

Thus, on a careful analysis of above discussed judicial pronouncements, oral and documentary evidence on record, this tribunal comes to a conclusion that the workman Balbir Singh was in continuous employment of the management from 16.05.1985 till his death on 06.03.2018 as a daily wage Safai Karamchari and he is entitled for regularization of his service from the date when a person name Syam Lal Junior to him was regularized against a vacant post i.e from 17.06.1992.

Since the workman died during the pendency of this proceeding it is directed that the management shall take appropriate steps in this regard and fix the pay of the deceased workman in the permissible pay scale after regularizing his service and extend the financial benefits to his legal heirs. Hence, ordered.

ORDER

The reference be and the same is answered in favour of the workman. The management is directed to regularize the service of the workman in the post of Safai Karmachari/Group D w.e.f. 17.06.1992 and fix his pay accordingly in the pay scale applicable from time to time alongwith other service benefits, so as to extend the financial benefits to the legal heirs of the deceased workman. It is further directed that the entire exercise by the management shall be completed within a period of 3 months from the date when this award would become executable, failing which the monetary entitlements of the workman towards his differential pay and other benefits accrued shall carry interest @ 9% per annum from the date of publication of the award till final payment is made. Send a copy of this award to the Appropriate Government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & corrected by me.

PRANITA MOHANTY, Presiding Officer

26th September, 2019

नई दिल्ली, 13 नवम्बर, 2019

का.आ. 1999.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स आयुक्त, दक्षिणी दिल्ली नगर निगम, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, 2 नई दिल्ली के पंचाट (संदर्भ संख्या 01/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 08.11.2019 को प्राप्त हुए थे।

[सं. एल-42011/159/2018-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 13th November, 2019

S.O. 1999.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 01/2019) of the Central Government Industrial Tribunal-cum-Labour Court-2 New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Commissioner, South Delhi Municipal Corporation, New Delhi & Others, and their workmen which were received by the Central Government on 08.11.2019.

[No. L-42011/159/2018-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 2: NEW DELHI

PRESENT : SMT. PRANITA MOHANTY, Presiding Officer, CGIT-cum-Labour Court-II, New Delhi

INDUSTRIAL DISPUTE CASE No. 01/2019

Date of Passing Award : 17th October, 2019

Shri Sandeep Sharma,
S/o. Shri Anil Kumar Sharma,
Through All India Engineering & General Mazdoor Union,
Plot No.50, Karan Vihar-II,
Gali No.10, New Delhi 110086.

...Workmen/Claimant

Versus

The Commissioner,
South Delhi Municipal Corporation
Malaria Department,
Dr.Shyama Prasad Mukherjee Building,
1 Jawahar Lal Nehru Marg,
New Delhi 110002.

... Management/Respondent

Appearances :-

None	For the Workman
Ms.Savita Chauhan, A/R	For the Management

AWARD

This Award shall decide a reference which was made to this Tribunal by the appropriate Government vide letter No.L-42011/159/2018-IR(DU) dated 04.12.2018 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short “the Act”) for adjudication of an industrial dispute, terms of which are as under:

‘Whether the termination of services of workman Shri Sandeep Sharma s/o. Shri Anil Kumar Sharma by the management of South Delhi Municipal Corporation is legal and justified ? If not, whether the workman is entitled for reinstatement with full back wages and all consequential benefits ? What other reliefs the workman is entitled to ?’

2. Both parties were put to notice. Despite service of notice, the claimant/ workman did not cause appearance before this Tribunal. Though the matter was adjourned time and again, the claimant opted not to participate in the proceedings and even he failed to file his Statement of Claim. Ultimately, this Tribunal was constrained to reserve the matter for passing No Claim/Dispute Award.

3. In view of the fact that the claimant has not filed statement of claim, this Tribunal has no option but to pass “No Claim Award” in the matter. Since the matter has not been decided on merits, there will be no bar for the claimant to file

afresh claim petition in accordance with law for adjudication of the controversy in issue or to seek any other relief to which the claimant is otherwise entitled to. Award is passed accordingly.

Let a copy of this Award be sent for publication as required under Section 17 of the Act.

Dictated & corrected by me.

PRANITA MOHANTY, Presiding Officer

17th October, 2019

नई दिल्ली, 13 नवम्बर, 2019

का.आ. 2000.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स अध्यक्ष/प्रबंध निदेशक, भारती एयरटेल लिमिटेड, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, - 2 नई दिल्ली के पंचाट (संदर्भ संख्या 11/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 08.11.2019 को प्राप्त हुए थे।

[सं. एल-40012/05/2016-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 13th November, 2019

S.O. 2000.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2016) of the Central Government Industrial Tribunal-cum-Labour Court-2 New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chairman/Managing Director, Bharti Airtel Limited, New Delhi & Others, and their workmen which were received by the Central Government on 08.11.2019.

[No. L-40012/05/2016-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 2: NEW DELHI

PRESENT : SMT. PRANITA MOHANTY, Presiding Officer, CGIT-cum-Labour Court-II, New Delhi

INDUSTRIAL DISPUTE CASE No. 11/2016

Date of Passing Award : 21st October, 2019

Shri Varun Kumar,
S/o. Shri Bhudev Sharma,
R/o. H.No.208, Gali No.9,
Prem Nagar Nathupura, Burari,
Delhi 1100086.

...Workman/Claimant

Versus

1. Bharti Airtel Limited,
Through its Chairman/Managing Director,
Regd. Office : Bharti Crescent-1,
Nelson Mandela Road, Vasant Kunj,
Phase-II, New Delhi 110070.
2. Bharti Airtel Services Ltd.
Through its Managing Director,
Corporate Cedntre, Neelgagal Sultanpur,
New Delhi 110030.
3. Alkatel Lusent Network
Management Ser.India Ltd.,
Through its Managing Director,

15th Floor, Tower-C, DLF Ciber Green
DLF Cirty, Phase-3,
Gurgaon 12206.

4. Telesonic Networks Limited,
Through its Managing Director,
A-27, 2nd Floor, Sigma Tower
Infocity Sector 34 Gurgaon
Haryana 12201.

...Managements

Appearances :-

None	For the Workmen
Shri Jitesh Pandey, A/R	For the Management

AWARD

This Award shall decide a reference which was made to this Tribunal by the appropriate Government vide letter No.L-40012/05/2016-IR(DU) dated 08.03.2016 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short "the Act") for adjudication of an industrial dispute, terms of which are as under:

'Whether the services of the workman Shri Varun Kumar have been transferred illegally and/or unjustifiably from Bharti Airtel Services Ltd. to Alkatel Luscent Ltd., now known as Telesonic Networks Ltd. or he has left the job on his own and what relief is he entitled to and what directions are necessary in this regard ? Whether the workman is entitled for regularization with Bharti Airtel Ltd. and if yes, what directions are necessary in this respect ?'

2. Both parties were put to notice and the claimants/ workmen filed statement of claim with the averments inter alia that he was appointed on 10/10/2006 by the Management No.1 as a Technician (S1 level) in Bharti Comtel Ltd. – a 100 per cent subsidiary of Management No.1 and his last drawn wages were Rs.15400/- per month. The workman worked for more than seven years. However, he was not granted annual increment in his wages @ 30 per cent besides other benefits like over time, leave encashment, though the workman continued to demand the same. The Management No.1 suddenly transferred the service of the workman to Management No.3 without any reason & utter disregard to his fundamental rights, despite the fact that he was appointed & paid wages by Management No.1 and worked for long under Management No.1. It is pleaded that engagement of the workman through the contractor is only a camouflage. The workman approached the Management No.1 various time regarding his illegal transfer & legal dues but with no success. He served a demand notice dated 30/5/2014 upon the Management through registered AD but to no response. Thereafter he approached the Conciliation Officer. Conciliation proceedings were held but failed due to non supportive attitude of Management No.1 and 2. The workman has prayed for reinstatement of old service alongwith consequential benefits from the date of his transfer and for regularization of his services under Management No.1.

3. Management No.1 M/s Bharti Airtel Ltd. resisted the claim of the workman, by filing written statement, mainly on the ground that there never existed any relationship of employee –employer between the claimant and Management No.1 as the claimant never served Management no.1 in any capacity at any point of time and that the claim petition is liable to be dismissed.

4- Management No.2 filed written statement, resisting the claim of the workman/claimant primarily on the ground that prior to raising demand regarding regularization of his services, purporting to be dispute under Section 2(k) of the Act, it was incumbent upon the claimant to have espoused the cause. It is alleged that the claimant had himself left the services of the Management No.2, after taking all his dues in full & final settlement and had, thus, relinquished his right over the employment with Management No.2. After receipt of benefits in full, the claimant had quit the services of Management No.2 and therefore, he is not permitted to resile from the same. Prayer has been made for dismissal of claim petition.

5- Management No.3 in its written statement also prayed for dismissal of claim petition and took preliminary objections inter alia that claimant on his own accord resigned from the services of Management No.2 and had joined the services of Management No.3, as he was offered more salary than that he was receiving earlier from Management No.2. It is stated that name of the Management No.3 company was changed to M/s Telesonic Networks Ltd. w.e.f. 25/2/2013. On account of change of name, there are no changes in service conditions of the employees. While denying the allegations that there has been transfer of service of the claimant, it has been stated that the claimant has not approached the Court with clean hands. The claimant has been duly paid wages as well as other benefits by the Management No.3

since inception of his employment till date. It is alleged that the claimant is not entitled to any relief qua the Management No.3 and thus, prayer has been made for dismissal of claim petition.

6- The claimant filed rejoinder to the written statement of Management No.1 and reiterated his own case as set up in the claim petition.

7- On the pleadings of the parties, following issues were framed by my learned Predecessor on 20/5/2017 :-

- 1) Whether the services of the workman Shri Varun Kumar have been transferred illegally and/or unjustifiably from Bharti Airtel Services Ltd. to Alkatel Luscent Ltd., now known as Telesonic Networks Ltd. ? If so its effect ?
- 2) Whether he has left the job on his own and what relief is he entitled to and what directions are necessary in this regard ? If so, its effect ?
- 3) Whether the workman is entitled for regularization with Bharti Airtel Ltd.? If so, its effect ?
- 4) Whether the claim of the claimant is espoused as per provisions of the Industrial Disputes Act, 1947 ?
- 5) What directions are necessary in this respect ?

8- Perusal of the record shows that despite number of opportunities granted to the workman/claimant to adduce evidence in support his case regarding illegal transfer of his services by Management No.2 to Management No.3 and about his claim for regularization of services by Management No.1, he did not lead any evidence. Ultimately this Tribunal was left with no option but to close his evidence vide order dated 21/8/2019. Since the claimant himself did not adduce any oral or documentary evidence to prove his case, A/R for the Managements chose not to lead any evidence.

7- At the outset it is mentioned that onus was upon the claimants/workmen to prove that his services were illegally & unjustifiably transferred by Management No.2 to the roll of Management No.3 and/or that he was in fact appointed by Management No.1 & that his services were/are required to be regularized by Management No.1 M/s Bharti Airtel Ltd. The workman/claimant has failed to discharge the onus. In view of the fact that the claimant has not led any evidence in support of his case, this Tribunal is constrained to pass "No Dispute Award" in the matter. Award is passed accordingly.

Let a copy of this Award be sent for publication as required under Section 17 of the Act.

Dictated & corrected by me.

PRANITA MOHANTY, Presiding Officer

21st October, 2019

नई दिल्ली, 13 नवम्बर, 2019

का.आ. 2001.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स अध्यक्ष/प्रबंध निदेशक, वलेचा इंजीनियरिंग लिमिटेड, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, - 2, नई दिल्ली के पंचाट (संदर्भ संख्या 26/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 08.11.2019 को प्राप्त हुए थे।

[सं. एल-42025/07/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 13th November, 2019

S.O. 2001.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2014) of the Central Government Industrial Tribunal-cum-Labour Court-2 New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chairman/Managing Director, Valecha Engineering Limited, New Delhi & Others, and their workmen which were received by the Central Government on 08.11.2019.

[No. L-42025/07/2019-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 2: NEW DELHI****PRESENT :** SMT. PRANITA MOHANTY, Presiding Officer, CGIT-cum-Labour Court-II, New Delhi**INDUSTRIAL DISPUTE CASE No. 26/2014**Date of Passing Award : 24th October, 2019

Shri Vivek Kumar Choudhary,
C/o. 44 2nd Floor, Chambers-1,
Main Road, Vikas Marg,
Shakarpur,
Delhi 110092

...Workman/Claimant

Versus

M/s. Valecha Engineering Limited,
Through its Chairman/Managing Director,
Office at AIIMS-01, DMRC Project,
Residential Colony, Gate No.4,
Ansari Nagar West,
New Delhi 110020.

...Management/Respondent

Appearances :-

Shri Arvind Kumar, A/R For the Workman

None For the Management

AWARD

This Award shall decide a claim petition filed directly by the workman/claimant Vivek Kumar Choudhary, under Section 2-A of the Industrial Disputes Act, 1947 (in short “the Act”) with the averments that after having been appointed in May, 2012 he was continuously working on the post of “Karigar” (Mechanic) under the Management. His last drawn wages were Rs.15000/- per month. The Management did not follow the provisions of law as no appointment letter was given to the workman. He was granted legal benefits like leave encashment, full bonus, over time allowance etc. He worked under the management with honesty for a period of about one year and six months. On 12/10/2014 the Management called on the workman in the office and tried to obtain his resignation forcefully. The workman was threatened with dire consequence of killing or falsely implicating in criminal case if he was not ready to sign his resignation. On same day, the workman was abused by the Management publicly. It is pleaded that the management terminated the services of the workman illegally and unjustifiably w.e.f. 12/10/2013 and even did not pay his earned wages for 12 days, i.e. Rs.6000/-. The workman gave a complaint against the Management to the Conciliation Officer on 19/11/2013 through the Union. Conciliation proceedings were held on 26/12/2013, 30/1/2014 and 28/2/2014 but to no avail. It is also pleaded that the workman has always been willing to work with the Management and in this respect he approached the Management but his services were not reinstated. The Management did not follow the provisions of Section 25-F of the Act at the time of termination of his services. The workman made his best efforts but could not succeed in getting any alternative gainful employment. Action of the Management is illegal and against the principle of natural justice. The workman/claimant has prayed for his reinstatement into service with full back wages and all consequential benefits.

2. Management resisted the claim of the Claimant Union, by filing written reply and took preliminary objections that the claim is not maintainable before this Tribunal as there is dispute of ID Act only and further that, the workman has not approached the Court with clean hands. It is alleged that the claim is based on false and baseless allegations, inasmuch as the workman had joined the Management as “Mechanic” on 18/9/2012 at its AIIMS-01 site and had left the job on 12/10/2013 on his own, without any information to the Management. The last working day of the workman/claimant was 11/10/2013 but he left the job without any information to the Management and even did not seek any clearance from the Management. It is alleged that the workman used to come late due to his ill health but most of time the Management avoided the same. After getting his earned wages @ Rs.15000/- per month for the month of September, 2013, the workman/claimant without any intimation did not report for duty and he is absent from duty, although the Management informed him to join the duty again & again on telephonic call on the mobile of the workman but he was adamant not to join the duty. It is alleged that the Management had never terminated the services of the

claimant rather he himself had left the job, without any information to the Management. Therefore, the workman is not entitled for any relief. Prayer has been made for dismissal of the claim petition.

3- The claimant/workman filed rejoinder/replication, reiterating his own case and denied the allegations made in the written statement.

4- On the pleadings of the parties, following issues were framed on 12/3/2015 by my learned Predecessor:-

- (1) Whether claim has been filed within the prescribed time and is not time barred ? If so, its effect ?
- (2) Whether this Tribunal has jurisdiction to decide this instant industrial Dispute ? If so, its effect ?
- (3) Whether claimant/workman suppressed the material facts and has not come with clean hands ? If so, its effect ?
- (4) Whether services of the workman has been illegally terminated ? If so, its effect ?
- (5) Whether the workman is entitled for reinstatement alongwith full back wages ? If so, its effect ?

5. In order to prove the case, the workman/ claimant himself appeared in the witness box as WW1 & tendered his evidence by way of affidavit Ex.WW1/A. He relied on the documents Ex.WW1/1 to Ex.WW1/3. On the other hand, the Management did not adduce any evidence despite the fact that number of opportunities were granted to it to lead evidence. Vide order dated 21/5/2019 this Tribunal was constrained to close evidence of the Management.

6- Arguments were advanced by Shri Arvind Kumar on behalf of the workman/claimant. I have also gone through the record carefully. My findings on above issues are as follows.

Issue No.1 & 2 :-

7- Both these issues are taken up together and they can be disposed of conveniently by common discussion. From the pleadings of the parties and evidence adduced on record, it is manifest that the workman/claimant was employee of the Management. As such, relationship of employee & employer between the parties is not in dispute. According to the case of the claimant/workman, his services were terminated illegally by the Management w.e.f. 12/10/2013. He filed the claim directly before this Tribunal on 15/4/2014. Needless to mention here that Section 2-A of the Act enables a workmen to approach Labour Court or Industrial Tribunal directly for adjudication of dispute, without requirement of reference by Government, where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman. Sub-Section (3) of Section 2-A provides that the claim application for such like an industrial dispute is to be made before expiry of three years from the date of discharge, dismissal or termination of services of the workman concerned. The present claim having been filed on 15/4/2014 i.e. before expiry of three years from the date of discharge/termination of the workman/claimant w.e.f. 12/10/2013, is well within the period of limitation so prescribed under Section 2-A(3) of the Act and hence same is maintainable before this Tribunal. The Management has not given any other plausible reason as to why the claim petition is not maintainable before this Tribunal. Therefore, both these issues are accordingly decided in favour of the workman/claimant.

Issue No. 3 to 5 :-

8- All these issues being inter-connected are taken together and can be disposed of conveniently by common discussion.

9- At the outset it is mentioned that though he had continuously been working as “Mechanic” under the Management since May, 2012, yet his services were illegally terminated by the Management w.e.f. 12/10/2013 and he was not paid his earned wages for 12 days, i.e. Rs.6000/-. On the contrary, contention of the Management is that the Management never terminated the services of the workman, rather it was the claimant/workman who after getting his earned for the month of September, 2013 did not report for duty and remained absent from duty, although the Management informed him to join the duty again & again on the mobile phone of the workman but he was adamant not to join the duty and thus, the claimant had abandoned the job.

10- It is now well settled position in law from various authorities of the Hon’ble Apex Court as well as of the High Courts that in case an employee remains absent from duty without intimation and without any cogent reasons, the employer is required to issue show cause notice to such an employee and hold a formal inquiry against such delinquent official. It is only thereafter the Competent Authority can pass order of termination or dismissal against such an employee. Reference can be made to the decision of the Hon’ble Apex Court in D.K. Yadav Vs. JMA Industries 1993 LLLR 584 (SC) wherein it was observed that even if a workman absents or over-stays his leave, an enquiry will be imperative in order to afford an opportunity to the employee. Further, in the case of Uptron India Vs. Shammi Bhan, 1998 LLLR 385 (SC), Hon’ble Apex Court had held that the abandonment of job by an employee depends upon his intention. Our own High Court in the decision titled Economic Transport Organization Vs. Dharmendra Mishra, 2014, LLLR 696 held that plea of abandonment in absence of domestic enquiry is untenable.

11- It may be mentioned that affidavit Ex.WW1/A filed by the workman/claimant is in line with the averments made in the statement of claim. In cross examination he denied the suggestion that on 12/3/2013 he had voluntarily left the job of the Management. He explained that he is still ready and willing to join the Management for work if so allowed. He had also been requesting to the Management for reinstatement of his service but they drove him out of the premises. He also deposed that he is ready & willing to work under the Management if so allowed.

12- The Management has not adduced any evidence to rebut the case of the workman or to show that the claimant/workman concealed material facts from this Tribunal. Even if it is assumed for the sake of arguments that the claimant/workman himself remained absent from duty w.e.f. 12/3/2013 as alleged by the Management, in that eventuality also it was imperative for the Management to issue show cause notice to the workman and to hold enquiry against him before terminating his services. There is nothing on record to show that the Management had issued any call back notice or show cause notice to the workman, what to talk of holding enquiry against the workman, prior to his termination. The Management has taken a vague stated that they had informed on the mobile phone of the workman to join duty but he was not adamant to join duty, inasmuch as neither any date/s when such calls were made, nor number of phone of the workman/claimant on which the claimant was informed, nor the name of the official who had conversed with the claimant, have been given. Even the Management has not examined any such witness to prove its case or to rebut the claim of the workman that despite his demand, he was not paid his earned wages for 12 days for the month of October, 2012. In the circumstances, the plea of the Management that the workman had abandoned the job himself is untenable.

13- It is undisputed fact that claimant had been continuously working under the Management on the post of "Mechanic" from 18/9/2012 to 11/12/2013, that is to say that he worked under the Management for more than one year, what to talk of 240 days in a calendar year. It is the case of the claimant that his services were terminated illegally, in contravention of the provisions of Section 25-F of the Act. It is a matter of record that the Management has not filed on record any document to show that any notice or retrenchment compensation was paid to the claimant prior to his termination. Thus it can be inferred that no notice or compensation in lieu of notice period was given to the claimant by the Management and termination of the claimant/workman by the Management was in violation of provisions of Section 25-F of the Act. This goes to show that the Management terminated the services of the claimant/workman in violation of the provisions of Section 25-F of the Act.

14- I may mention that provisions of Section 25-F of the Act which provides for conditions precedent to retrenchment of workmen, are absolute and inexorable and it reads as under :-

"25-F : Conditions precedent to retrenchment of workmen –

No workman employed in any industry **who has been in continuous service for not less than one year under an employer** shall be retrenched by that employer until –

- (a) The workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) The workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed years of continuous service or any part thereof in excess of six months; and
- (c) Notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette."

The above provision makes it clear that the employer is required to give notice to the appropriate Government apart from giving one month's notice in writing or one month's wages in lieu of the notice and payment of retrenchment compensation to the concerned workman. There is nothing on record to show that either any notice was issued by the Management or notice pay/compensation was paid to the workman/claimant prior to his termination. As such, the Management has violated the provisions of Section 25-F of the Act.

15- There is long line of decisions of Hon'ble Apex Court as well as of various High Courts that provisions of Section 25-F of the Act are mandatory in nature and termination of the workman from services in derogation of the provisions of Section 25-F of the Act will render action of the Management to be illegal and void under the law.

16- Since there is no evidence on record that any valid notice was issued by the Management to the workman at the time of termination of his services or in lieu of such notice, any compensation was paid to him, as such action of the Management in terminating the services of the workman w.e.f. 12/10/2013 is held to be illegal and void.

17- Now the crucial question arises for consideration is whether the claimant/workman is entitled to any incidental relief of payment of back wages and/or reinstatement of service with full back wages. It is apposite to mention here that the claimant has explained in his testimony that no appointment letter was issued to him and on oral order, he started

working under the Management after he was interviewed by the Management. The claimant/workman was continuously in the employment of the Management from 18/9/2012 to 11/10/2013 even as per the case of the Management. **His last drawn wages were Rs.150000/- per month.** Services of the claimant were illegally terminated w.e.f.12/10/2013. The claimant/workman has testified that he is unemployed since the date of his termination and that he is ready & willing to join the management for work if so allowed. This Tribunal is not oblivious of the fact that the claimant was working under the Management at its AIIMS-01 site which was a project of DMRC (Delhi Metro Rail Corporation), that is to say that the claimant/workman was engaged by the Management for that project. The said project might have completed by now, as more than six years completed since then.

18- The Hon'ble Apex Court in case **"Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya"** reported as (2013) 10 SCC 324 has held as under :

"The propositions which can be culled out from the aforementioned judgments are :

- i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.
- ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments."

19- Latest trend itself discernable from the various pronouncements made by the Hon'ble Apex Court is that when a person has been engaged on daily wage basis or for doing temporary kinds of work, in that situation full back wages are not to be awarded. There are number of factors which are required to be considered by the Tribunal while considering the question of reinstatement with back wages. It has been held in the case of **Hari Nandan Prasad Vs. Food Corporation of India (2014) 7 Supreme Court cases 190** as under :-

"Relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice. An order of retrenchment passed in violation of Section 25-F although may be set aside but an award of reinstatement should not, however, automatically be passed. The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly daily wages has not been found to be proper by the Supreme Court and instead compensation has been awarded. The Supreme Court has distinguished between a daily wagger who does not hold a post and a permanent employee. The reasons for denying the relief of reinstatement in such cases are obvious. **It is trite law that when the termination is found to be illegal, because of non payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation.**

20- Having regard to the recent judicial trends coupled with the facts & circumstances of the case as discussed hereinabove, this Tribunal is of the opinion that an amount of Rs.5,00,000/- (Rupees Five Lakhs) as compensation would be just and reasonable and this sum will include his unpaid wages for 12 days. Accordingly, lumpsum compensation to the tune of Rs.Five Lakhs is hereby awarded in favour of the workman/claimant herein. All these issues are accordingly decided in favour of the workman and against the Management.

ORDER

The reference is answered on the contest in favour of the workman. Lumpsum compensation amount of Rs.5,00,000/- (Rupees Five Lakhs) is hereby awarded in favour of the claimant/workman which shall be paid by the Management within two months from the date of publication of the Award, failing which the claimant will be entitled to recover the same alongwith interest @ 6% p.a. from the date of publication of Award till realization. Award is passed accordingly. Let copy of this Award be sent for publication as required under Section 17 of the Act.

Dictated & corrected by me.

PRANITA MOHANTY, Presiding Officer

24th October, 2019

नई दिल्ली, 13 नवम्बर, 2019

का.आ. 2002.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स अध्यक्ष/प्रबंध निदेशक, भारती एयरटेल लिमिटेड, वसंत कुंज, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय- 2, नई दिल्ली के पंचाट (संदर्भ संख्या 05/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 08.11.2019 को प्राप्त हुए थे।

[सं. एल-40012/05/2016-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 13th November, 2019

S.O. 2002.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 05/2017) of the Central Government Industrial Tribunal-cum-Labour Court-2 New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chairman/Managing Director, Bharti Airtel Limited, Vasant Kunj, New Delhi & Others, and their workmen which were received by the Central Government on 08.11.2019.

[No. L-40012/05/2016-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 2: NEW DELHI****PRESENT :** SMT. PRANITA MOHANTY, Presiding Officer, CGIT-cum-Labour Court-II, New Delhi**Complaint Case No. 05/2017**Date of Passing Award : 21st October, 2019

Shri Varun Kumar,
S/o. Shri Bhudev Sharma,
R/o. H.No.208, Gali No.9,
Prem Nagar Nathupura, Burari,
Delhi 1100086.

...Workman/Claimant

Versus

1. Bharti Airtel Limited,
Through its Chairman/Managing Director,
Regd. Office : Bharti Crescent-1,
Nelson Mandela Road, Vasant Kunj,
Phase-II, New Delhi 110070.
2. Bharti Airtel Services Ltd.
Through its Managing Director,
Corporate Cedntre, Neelgagal Sultanpur,
New Delhi 110030.
3. Alkatel Lusent Network
Management Ser.India Ltd.,
Through its Managing Director,
15th Floor, Tower-C, DLF Ciber Green
DLF Cirty, Phase-3,
Gurgaon 12206.
4. Telesonic Networks Limited,
Through its Managing Director,
A-27, 2nd Floor, Sigma Tower
Infocity Sector 34 Gurgaon
Haryana 12201.

..Managements

Appearances :-

None	For the Workmen
Shri Jitesh Pandey, A/R	For the Management

AWARD

Briefly stated facts of the case are that vide letter No. L-40012/05/2016-IR(DU) dated 08.03.2016, an industrial dispute was referred for adjudication by the appropriate Government to this Tribunal under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) and terms of the said industrial dispute are as under:

“Whether the services of the workman Shri Varun Kumar have been transferred illegally and/or unjustifiably from Bharti Airtel Services Ltd. to Alkatel Luscent Ltd., now known as Telesonic Networks Ltd. or he has left the job on his own and what relief is he entitled to and what directions are necessary in this regard ? Whether the workman is entitled for regularization with Bharti Airtel Ltd. and if yes, what directions are necessary in this respect ? ”

2. Both parties were put to notice and the claimant/ workman filed statement of claim, whereas the Management No.1 to 3 resisted the claim of workman, by filing separate written statements.

3- During pendency of the proceedings, the claimant herein moved a complaint under Section 33-A of the Act, stating that the Management No.1 wanted to take forceful resignation of the workman and even his signatures were taken on blank papers so as to unnecessarily harass the workman. The Management even changed the service conditions as it started paying less salary after deducting part of special allowance and new component of statutory bonus was added in the gross salary, though gross salary was not increased. The workman approached Payroll Head Mr.Abdul Jameel and HR Manager Dheeraj Dheer through e-mail but to no proper response. It is pleaded that change of salary structure of the workman by the Management is in violation of the provisions of Section 25-T, 25-U and Section 33-A of the Act. The workman/claimant has thus prayed for passing award regarding maintenance of salary structure alongwith consequential benefits from the date of change of salary structure and increase of special allowance.

4- Management No.1 M/s Bharti Airtel Ltd. resisted the claim of the workman, by filing written statement and took objection that there never existed any relationship of employee –employer between the claimant and Management No.1 as the claimant never served Management no.1 in any capacity at any point of time and that the claim petition is liable to be dismissed.

4- Management No.2 filed written statement & resisted the claim of the workman/claimant primarily on the ground that the claimant had himself left the services of the Management No.2, after taking all his dues in full & final settlement and had, thus, relinquished his right over the employment with Management No.2. After receipt of benefits in full, the claimant had quit the services of Management No.2 and therefore, there can not be any occasion for the Management No.2 to change service conditions of the claimant. Prayer has been made for dismissal of claim petition.

5- In view of the provisions of Section 33-A of the Act, the instant complaint was/is treated to be a dispute as referred to this Tribunal in accordance with the provisions of the Act. As such, this Tribunal is required to submit the Award to the appropriate Government.

6- It is worthwhile to mention here that an application under Order VI rule 17 CPC was moved on behalf of the claimant for amendment of the complaint which was allowed by this Tribunal vide order dated 19/12/2018. The claimant was directed to file amended claim/complaint. Though number of opportunities were granted to the Complainant to file amended complaint, yet he failed to do so. The workman/complainant even failed to lead evidence in support of the industrial dispute as referred to by the Government, as also in relation to the instant complaint under Section 33-A of the Act. The complainant also stopped participating in the proceedings. Ultimately this Tribunal was constrained to reserve the matter for passing the award as it seemed that the claimant was not at all interested in the progress of the matter. The law is fairly settled that if a party to a case does not enter the witness box or examine any other witness in support of the stand taken in the respective pleadings, in that eventuality this Tribunal is bound to draw adverse inference against the said party.

7- In view of the fact that the claimant/complainant has not led any evidence in support of his case, this Tribunal is constrained to pass No Dispute Award in the matter. Since the matter has not been decided on merits, there will be no bar for the claimant to file afresh claim petition in accordance with law for adjudication of the controversy in issue or to seek any other relief to which he is otherwise entitled to. Award is passed accordingly.

Let a copy of this Award be sent for publication as required under Section 17 of the Act.

Dictated & corrected by me.

PRANITA MOHANTY, Presiding Officer

21st October, 2019

नई दिल्ली, 13 नवम्बर, 2019

का.आ. 2003.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स महानिदेशक (कार्य), सी पीडब्ल्यूडी, निर्माण भवन, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय- 2, नई दिल्ली के पंचाट (संदर्भ संख्या 229/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 08.11.2019 को प्राप्त हुए थे।

[सं. एल-42011/54/2018-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 13th November, 2019

S.O. 2003.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 229/2019) of the Central Government Industrial Tribunal-cum-Labour Court-2 New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Director General (Works), CPWD, Nirman Bhawan, New Delhi & Others, and their workmen which were received by the Central Government on 08.11.2019.

[No. L-42011/54/2018-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 2: NEW DELHI

PRESENT : SMT. PRANITA MOHANTY, Presiding Officer, CGIT-cum-Labour Court-II, New Delhi

INDUSTRIAL DISPUTE CASE No. 229/2019

Date of Passing Award : 16th October, 2019

Smt. Asha w/o. late Shri Gajinder,
Through Rashtriya Mazdoor Sangh,
40-B, Bulward Road,
Tis Hazari, Delhi 110054

...Workman/Claimant

Versus

1. The Director General (Works),
CPWD, Nirman Bhawan,
New Delhi 110001.
2. The Superintending Engineerf (Coord.),
Co-ordination Circle (Civil
Northern Region, CPWD,
East Block-1,
R. K. Puram,
New Delhi 110022.

... Managements/Respondents

Appearances :-

None	For the Workman
None	For the Management

AWARD

This Award shall decide a reference which was made to this Tribunal by the appropriate Government vide letter No.L-42011/54/2018-IR(DU) dated 27.11.2018 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short “the Act”) for adjudication of an industrial dispute, terms of which are as under:

‘Whether the rejection of the name of Smt. Asha w/o. late Gajinder who died on 13/11/2003 for the purpose of appointment on compassionate ground by the management of CPWD on various grounds is just, fair and legal ? If not, what relief Smt. Asha w/o. late Gajinder concerned is entitled to ?’

2. Both parties were put to notice. None came forward on behalf of the claimant to cause appearance, though Shri Ramveer Singh clerk from the office of the Management appeared. Perusal of the record shows that time and again matter was adjourned for filing statement of claim on behalf of the claimant but the claimant for the reasons best known to her did not file statement of claim. Hence, this Tribunal was of the view of the claimant was not interested to pursue the case and ultimately the case was reserved for “No claim/dispute award”.

7- In view of the fact that the claimant has failed to file her statement of claim, giving details about her grievance & industrial dispute with the Management, this Tribunal is constrained to pass “No Claim Award” in the matter. Since the matter has not been decided on merits, there will be no bar for the claimant to file afresh claim petition in accordance with law for adjudication of the controversy in issue or to seek any other relief to which the claimant is otherwise entitled to. Award is passed accordingly.

Let a copy of this Award be sent for publication as required under Section 17 of the Act.

Dictated & corrected by me.

PRANITA MOHANTY, Presiding Officer

16th October, 2019

नई दिल्ली, 13 नवम्बर, 2019

का.आ. 2004.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स सचिव, रक्षा मंत्रालय, साउथ ब्लॉक, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, नई दिल्ली के पंचाट (संदर्भ संख्या 112/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 08.11.2019 को प्राप्त हुए थे।

[सं. एल-14012/28/2013-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 13th November, 2019

S.O. 2004.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 112/2013) of the Central Government Industrial Tribunal-cum-Labour Court-2 New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Secretary, Ministry of Defence, South Block, New Delhi. & Others, and their workmen which were received by the Central Government on 08.11.2019.

[No. L-14012/28/2013-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 2: NEW DELHI****PRESENT :** SMT. PRANITA MOHANTY, Presiding Officer, CGIT-cum-Labour Court-II, New Delhi**INDUSTRIAL DISPUTE CASE No. 112/2013**Date of Passing Award : 14th October, 2019

Shri Ram Gobind,
S/o. late Shri Sita Ram,
R/o.l. S-170/B-189, Village Jharera,
New Delhi Cantt.

...Workmen/Claimant Union

Versus

1. Union of India through the Secretary,
Ministry of Defence, South Block, New Delhi.
2. The Joint Secretary (Trg.)
CAO, Ministry of Defence, South Block, New Delhi.
3. The Director (PMO),
DIPAC, CVD Complex, Delhi Cantt.
New Delhi.
4. The Chief Administrative Officer,
Defence Image Processing & Analysis Centre,
CVD Complex, Delhi Cantt,
New Delhi.

...Managements/Respondents

Appearances :-

None	For the Workman
Shri Sanjeev Yadav, A/R	For the Management

AWARD

This Award shall decide a reference which was made to this Tribunal by the appropriate Government vide letter No.L-14012/28/2013-IR(DU) dated 02.9.2013 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short "the Act") for adjudication of an industrial dispute, terms of which are as under:

‘Whether the action of the management of DIPAC in terminating the services of Shri Ram Gobind s/o. late Shri Sita Ram w.e.f.13.12.2004 ius just, fair and legal ? To what relief the workmen concerned is entitled to ?’

2. Both parties were put to notice and the claimant/ workman filed statement of claim, with the averments that he was appointed as casual Gardener on dialy wage basis w.e.f. 19/7/1994 and had worked with the Management till 12/12/2004. He completed 240 days in each year of service rendered by him and as such he worked under the Management for about 10 years.. His services were orally terminated illegally and arbitrarily on 13/12/2004 without payment of retrenchment compensation and without issuing any notice in violation of the provisions of Section 25-F,G & H of the Act. Prayer has been made for reinstatement of the workman into service with continuity of service and full back wages.

3. Management resisted the claim of the workman, by filing written statement, stating that the claim is not maintainable as the workman is not an employee of the Management and has got no cause of action against the Management. It is alleged thtg the claimant was never appointed as a casual labour and on the contrary, he was hired/engaged as a casual/daily rated labourer on daily wages and was paid as per Minimum Wages Act during the period from 19/7/1994 to 12/12/2004. There is no post of Gardner/Mali in DIPAC. Prayer has been made for dismissal of claim petition.

4- The claimant Union filed rejoinder, reiterating its own case and denied the allegations made in the written statement.

5- On the pleadings of the parties, following issues were framed by my learned Predecessor on 2/2/2015 :-

- 1) Whether the action of the management of DIPAC in terminating the services of Shri Ram Gobind s/o. late Shri Sita Ram w.e.f.13.12.2004 is just, fair and legal ? If so, its effect ?
- 2) To what relief the workman is entitled to and from which date ?

6- Perusal of the record shows that despite number of opportunities granted to the workman/claimant to adduce evidence so as to prove his case about his engagement/employment with the Management & illegal termination of his services, he did not lead any evidence and ultimately this Tribunal was left with no option but to close his evidence vide order dated 14/5/2019. In the circumstances, the Management also opted not to lead any evidence. As such, no evidence has been adduced by either of the parties.

7- Onus was upon the claimant to prove that he worked under the Management for 10 years or so and that his services were illegally terminated by the Management. It is a matter of record that the claimant did not appear before the Tribunal from 12/3/2018 onwards despite the fact that matter was adjourned time and again and ultimately this Tribunal was constrained to reserve the matter for passing the award.

7- In view of the fact that the claimant has not led any evidence in support of his case, this Tribunal is constrained to pass No Dispute Award in the matter. Since the matter has not been decided on merits, there will be no bar for the claimant to file afresh claim petition in accordance with law for adjudication of the controversy in issue or to seek any other relief to which the claimant is otherwise entitled to. Award is passed accordingly.

Let a copy of this Award be sent for publication as required under Section 17 of the Act.

Dictated & corrected by me.

PRANITA MOHANTY, Presiding Officer

14th October, 2019

नई दिल्ली, 13 नवम्बर, 2019

का.आ. 2005.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स महाप्रबंधक, ऑप्टो इलेक्ट्रॉनिक्स फैक्टरी, रायपुर रोड, देहरादून और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, - 2 नई दिल्ली के पंचाट (संदर्भ संख्या 80/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 08.11.2019 को प्राप्त हुए थे।

[सं. एल-14011/05/2013-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 13th November, 2019

S.O. 2005.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 80/2013) of the Central Government Industrial Tribunal-cum-Labour Court-2 New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The General Manager, Opto Electronics Factory, Raipur Road, Dehradun New Delhi.& Others, and their workmen which were received by the Central Government on 08.11.2019.

[No. L-14011/05/2013-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 2: NEW DELHI****PRESENT :** SMT. PRANITA MOHANTY, Presiding Officer, CGIT-cum-Labour Court-II, New Delhi**INDUSTRIAL DISPUTE CASE No. 80/2013**Date of Passing Award : 18th October, 2019

Shri Vikram Singh Gosai,
working as Vendor/Bearer in the
OPTO Electronic Factory
A Unit of Ordinance Factory Board,
Govt. of India, Ministry of Defence,
Raipur, Dehradun 248008
Alongwith 39 other workmen

...Workmen/Claimants

Versus

1. The General Manager,
Opto Electronics Factory, Raipur Road,
Dehradun 248008.
2. The Chairman,
Ordinance Factory Board,
10-A SK Bose Road,
Kolkatta 700001.
3. The Secretary,
Department of Production,
Ministry of Defence, South Block,
New Delhi 110011.
4. The Flag Officer, through Secretgary
Department of Production,
Ministry of Defence, South Block,
New Delhi 110011.

...Managements/Respondents

Appearances :-

None For the Workman

Shri R.M.Sharma, A/R For the Management

AWARD

This Award shall decide a reference which was made to this Tribunal by the appropriate Government vide letter No.L-14011/05/2013-IR(DU) dated 10.07.2013 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short "the Act") for adjudication of an industrial dispute, terms of which are as under:

'Whether publication of SRO 107 after 22 years and thereby depriving of consequential benefits of ACP w.e.f. 9-8-1999/ 9-3-2001 in the pay scale of 3050-4590/- in place of Rs.2650/- by the management of Opto Electronics Factory to workman Shri Vikram Singh Gusain, Server/Vendor/ Bearer is unjustified and illegal ? What relief the workman is entitled to ?'

2. Both parties were put to notice. The claimants/ workmen filed a statement of claim, which is not happily worded. According to the averments made therein, the post of cook in the industrial canteens under the Management located all over country, is skilled one. As per recommendations of the Expert Body i.e.5th Pay Commission, the workmen are entitled for the pay-scale of Rs.3050-4590/-. Same was considered and granted by the Management but the Management denied benefits of ACP in the pay-scale of Rs.4000-6000/- to the workmen working as cook in 39 industrial canteens of the Management. OA on behalf of the workmen was filed before the Central Administrative Tribunal, Jabalpur Branch wherein an order was issued for considering the representation/grievance of the workmen. It is pleaded

that the grievance of the workmen has not been considered by the Management. Thus, prayer has been made that Management be directed to grant financial upgradation under 1st ACP in the pay-scale of Rs.4000-6000/- (with grade pay of Rs.2400/-) and to grant financial upgradation under 2nd ACP in the pay-scale of Rs.5000-8000/- (as revised to Rs.9300-34800/- with grade pay of Rs.4200/-) to all the workmen working in 39 industrial canteens as per order of DOPT dated 6/5/2011.

3. Management resisted the claim of the workman, by filing written statement and took preliminary objections inter-alia that vide the instant ID the applicant has raised dispute in respect of the post of Cook, which was not prayed in the application filed before the Labour Commissioner at Dehradun. It has been stated that SRO 107 relevant for Canteen Employees in the Ordinance Factories came into force on 21/8/2006 i.e. from the date of publication in the official Gazette. The ACP scales for the canteen employees for the posts of Cook, Server/bearer and salesman/vendor was notified vide OFB instruction No.07/2006/A/NI circulated vide letter dated 10/11/2006 whereby it was mentioned that DOPT's clarification regarding ACP scheme conveyed as point of doubt No.66 in OM No.3/4/99-Dir (C) dated 18/7/2001 shall be applicable for regulating ACP. In accordance with DOPT clarification, the benefit of financial upgradation under ACP scheme, according to the restructured hierarchy, consequent upon publication of SRO 107 dated 21/8/2006, should be allowed from the date of publication of recruitment rules or at the time one becomes eligible, whichever is later. Accordingly, the ACP scales for cook, server/bearer and salesman/vendor were given w.e.f. 21/8/2006 as given hereunder :-

Post	According to SRO 107 dated 21.08.2006		
	Pay Scale	ACP – I	ACP-II
Cook	3050-4590(S-5)	3200-4900 (S-6)	4000-6000 (S-7)
Server / Bearer	2610-3540 (S-2)	3050-4590 (S-5)	3200-4900 (S-6)
Salesman / Vendor	2610-3540 (S-2)	3050-4590 (S-5)	3200-4900 (S-6)

As such, under erstwhile ACP scheme 1st and 2nd financial upgradation was admissible to Cook in the aforesaid pay-scales. Under Modified Assured Career Progression scheme introduced w.e.f. 1/9/2008, the 1st and 2nd financial upgradation is admissible in the grade pay of Rs.2000/- (pre-revised 3200-4900) and in the grade pay of Rs.2400/- (pre revised 4000-6000). It has been stated that Hon'ble CAT, Jabalpur vide judgement dated 5/7/2010 in OA No.450/2010 had directed the Management to treat the OA as representation and pass a reasoned order. In compliance thereof, the Management had issued speaking order dated 16/12/2010. The prayer of the claimants for grant of 1st ACP in the pay-scale of Rs.4000-6000/- (with grade pay of Rs.2400) and 2nd ACP in the pay-scale of Rs.5000-8000/- (with grade pay of Rs.4200) is not possible because it is not covered under rules and hence can not be granted. It is claimed that the prayer of the claimants is not tenable.

4- No rejoinder was filed on behalf of the claimant. On the pleadings of the parties, following issues were framed by my learned Predecessor vide order dated 6/12/2015 :-

- Whether publication of SRO 107 after 22 years and thereby depriving of consequential benefits of ACP w.e.f. 9-8-1999/ 9-3-2001 in the pay scale of 3050-4590/- in place of Rs.2650/- by the management of Opto Electronics Factory to workman Shri Vikram Singh Gusain, Server/Vendor/ Bearer is unjustified and illegal ? If so, its effect ?
- To what relief the workman is entitled to and from which date?

6- At the outset I may mention that in terms of reference as mentioned hereinabove in para 1, the dispute/cause relates to a single workman namely Shri Vikram Singh, **Server/Vendor/Bearer**, whereas the statement of claim has been preferred on behalf of 40 workmen, working on the post of **Cook** in the Industrial Canteens of the Management. Anyhow, despite number of opportunities granted to the workmen/claimants to adduce evidence so as to prove their case, no evidence has been led. Perusal of the order dated 25/1/2012 shows that A/R appearing for the workmen had expressed his desire not to adduce any evidence on behalf of the workman/claimants and he had closed his evidence. On the other hand, the Management examined one Shri Kamlesh Kumar, Joint General Manager as MW1 who filed his affidavit Ex.MW1/A and placed reliance on documents Ex.MW1/1 to MW1/5.

7- I have gone through the records carefully and my findings on above issues are as follows.

Issue No. 1 and 2 :-

8- Both these issues being co-related are taken up together, as they can be disposed of conveniently by common discussion.

9- I may mention that onus was upon the workmen/claimants to prove the case regarding their entitlement to get financial benefits of 1st ACP in the pay-scale of Rs.4000-6000/- (with grade pay of Rs.2400) and of 2nd ACP in the pay-scale of Rs.5000-8000/- (with grade pay of Rs.4200/-). However, the workmen/claimants have failed to discharge the onus, as they have not led any evidence in support of their case, for the reasons best known to them. On the contrary, the testimony of MW1 Shri Kamlesh Kumar which is in line with the defence taken in the written statement, has gone unchallenged and unassailed, as none on behalf of the claimants/workmen came forward to cross examine the said witness. MW1 in his testimony has explained that SRO 107 relevant for Canteen Employees of the Management came into force on 21/8/2006 i.e. the date of publication in the official gazette. The ACP scales for the Canteen employees serving as Cook, Server/Bearer & Salesman/Vendor were notified vide OFB instruction No.07/2006/A/NI circulated vide letter dated 1046/SRO/Canteen/A/NI dated 10/11/2006. The employees working under the Management are governed by the Rules & Regulations framed by the Ministry of Defence, Govt. of India and conveyed to the Units through Ordinance Factory Board (HQ). Promotions as well as financial upgradation under a particular scheme are processed by the Management within the ambit of the provisions contained in the statutory rules and Orders (SRO) and that too, from the date from which such orders were made effective. In view of the unassailed testimony of MW1 and the fact that no evidence contrary thereto has been led by the claimants/workmen, this Tribunal has no option but to hold that action of the Management in depriving consequential benefits of ACP w.e.f. 9/8/99 in the pay-scale of Rs.3050-4590 in place of Rs.2650/- to the workman Shri Vikram Singh Gusain, Server/Vendor/Bearer is neither unjustified nor illegal. These issues are, therefore, decided accordingly against the workmen/claimants.

ORDER

The reference is answered on the contest against the claimants/ workmen. In the peculiar facts & circumstances of the case, the claimants are not entitled to any relief whatsoever. Award is passed accordingly. Let copy of this Award be sent for publication as required under Section 17 of the Act.

Dictated & corrected by me.

PRANITA MOHANTY, Presiding Officer

18th October, 2019